

*Code of Student Rights and Responsibilities*  
2014-2015



BALL STATE  

---

UNIVERSITY.®

## TABLE OF CONTENTS

Introduction	2
I. Bill of Rights and Responsibilities	3
II. Authority	7
III. Equitable Procedures	9
IV. Definitions	9
V. Code of Conduct	10
5.1 Offenses Against Persons	10
5.2 Offenses Related to the Operation of the University	11
5.3 Violations That Compromise the Health/Safety/Welfare of Others	13
5.4 Offenses Against Property	13
5.5 Offenses Involving the Judicial Process	13
VI. Disciplinary Procedures	14
6.1 General Procedures	14
6.2 Housing and Residence Life	15
6.3 Recreation Services	16
6.4 Student Organizations	17
6.5 Student Rights and Community Standards	20
6.6 Sanctions	24
6.7 Grade Appeals	26
VII. Student Academic Ethics Policy	31
Appendices	
Appendix A - Alcohol Policy	40
Appendix B - Drug Policy	41
Appendix C - Harassment Policy	41
Appendix D - Hazing Policy	43
Appendix E - Information Technology Users' Privileges and Responsibilities	43
Appendix F - Involuntary Withdrawal Policy	49
Appendix G - Pet Policy	52
Appendix H - Records Policy	53
Appendix I - Self-Harm Policy	55
Appendix J - Sexual Harassment Policy	56
Appendix K - Sexual Misconduct Policy	59
Appendix L - Tobacco-Free Campus Policy	65
Appendix M - Student Funeral and Bereavement Appeals	67
Appendix N - Use of Property for Expressive Activities Policy	68
Appendix O - Weapons Policy	72
Appendix P - Policy Concerning the Ownership, Distribution and Commercial Development of Ball State University Intellectual Property and Technology	73
Appendix Q - Responding to Disruption in the Academic Setting	76
Appendix R - Requirement to Disclose Felony Conviction after Admission	77
Appendix S - Policy Concerning Campus Use: Regulations for Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity	78

# ***BALL STATE CODE OF STUDENT RIGHTS AND RESPONSIBILITIES 2014-2015***

## **INTRODUCTION**

Ball State University expects and requires all of its students and their guests to cooperate in developing and maintaining high standards of scholarship and conduct. Upon entrance into the University, students are not only presented with many rights, privileges, and opportunities, they are also faced with attendant responsibilities. In order for students to live and learn in harmony with others in the University community, they must assume responsibility for their actions and respect the rights and beliefs of others. A broad statement of those expectations is expressed in Ball State's *Beneficence Pledge* which is found below (approved and published separately as well):

### *The Beneficence Pledge*

Members of the Ball State University Community...

pledge to maintain high standards of scholarship and excellence  
*to work with students, faculty, and staff to strengthen teaching and learning on campus.*

pledge to practice academic honesty  
*to model and uphold academic integrity, to honor my peers and earn the trust and respect from all members of the community.*

pledge to act in a socially responsible way  
*to treat each person in the Ball State community with civility, courtesy, compassion, and dignity; to respect the property and environment of the campus.*

pledge to value the intrinsic worth of every member of the community  
*to respect and learn from differences in people, ideas, and opinions.*

The University community is not a sanctuary from the law and all students of the University are subject to local, state and federal laws. In addition, each individual is obligated to protect the University as a forum for the free expression of ideas.

The *Code of Student Rights and Responsibilities* outlines behaviors expected of students at Ball State University and methods used to judge student behavior fairly according to these standards. The standards of conduct apply to students while on the campus or off campus, when attending University-sponsored events, or when such conduct involves the security or integrity of the University community.

The resolution of complaints for violation of the *Code of Student Rights and Responsibilities* (*Code*) may vary according to the location of the alleged violation, the complexity of the circumstances of the complaint, or the relative seriousness of the complaint. Offices and departments will routinely consult to determine the most appropriate venue for adjudication. Regardless of where a complaint is resolved, one purpose of this *Code* is to provide an educational framework for students so that they may make responsible choices regarding their behavior in this academic community.

## **Bill of Rights and Responsibilities**

### **1.1 Preamble**

Students of the University have an obligation to fulfill the responsibilities incumbent upon all citizens, as well as the responsibilities of their particular roles within the academic community. All students share the obligation to respect:

The fundamental rights of others as citizens;

The rights of others based upon the nature of the educational process;

The rights of the institution; and

The rights of students to fair and equitable procedures determining when and upon whom penalties for violation of campus regulations should be imposed.

### **1.2 Student's Relation to Civil Law**

As citizens, students of Ball State University enjoy the same basic rights and are bound by the same responsibilities to respect the rights of others as all other citizens.

Among the basic rights are freedom of speech, freedom of the press, freedom of peaceful assembly and association, freedom of political beliefs, and freedom from physical force and violence, threats of violence, and abuse.

Freedom of the press guarantees there will be no censorship of students or of any other individuals in the Ball State community. Professional journalistic standards encourage the public's right to know, accepted ethical practices, accuracy, objectivity, and fair play; students and other individuals in the University community are encouraged to follow these standards.

It should be made clear in writings and broadcasts that editorial opinions are not necessarily those of Ball State University or its students.

The campus is not a sanctuary from local, state, and federal law.

Admission to and employment by the University shall be in accordance with the provisions against discrimination in local, state, and federal law.

### **1.3 Student's Relation to Community**

**1.3.1** Students attending the University take on responsibilities not only of campus citizenship but also citizenship in the surrounding community. When community standards are not respected and upheld by students, unpleasant and undesirable conflicts between students and other community residents may result. Such conflicts are destructive to human relationships in the community and detrimental to the image of the University, as well as, to the reputation of the student body. Students are also subject to legal sanctions when they violate local, state, or federal laws or otherwise infringe upon the rights of others.

- 1.3.2** Students shall conduct themselves responsibly in the community, respecting the personal and property rights of all residents. It is to the advantage of the student body, as well as in the best interest of the University and the community, for everyone to work together to maintain community standards and to build good relations among the citizenry.

#### ***1.4 Student's Relation to University***

Ball State University, as an institution of higher education (and any division or agency which exercises direct or delegated authority for the institution), has rights, obligations and responsibilities of its own, including the:

- 1.4.1** Obligation to provide opportunities for students of the University to present and debate public issues.
- 1.4.2** Obligation not to take a position as an institution in electoral politics.
- 1.4.3** Right to require that persons on the campus be willing to identify themselves by name and address and state what connection, if any, they have with the University.
- 1.4.4** Right to establish reasonable standards of conduct for all persons on the campus in order to safeguard the educational process and to provide for the safety and welfare of its students, visitors, and University property.
- 1.4.5** Right to prohibit individuals and groups who are not students of the University from using its name, its finances, and its physical and operating facilities for political activities, or for commercial activities, except as specifically agreed to in writing by the proper authorities of the University.
- 1.4.6** Right to prohibit students of the University from using its name, its finances, or its physical and operating facilities for commercial activities, except in cases involving recognized student and faculty groups as stated in policies governing use of the campus facilities and fund-raising activities.
- 1.4.7** Right and obligation to provide, for recognized student groups of the University, the use of campus facilities under the rules of the campus, including use for political purposes such as meeting of political clubs; the right and obligation to prohibit use of its facilities by individual students or student groups on a regular or prolonged basis as free headquarters for political campaigns; and the right and obligation to prohibit use of its name and its finances for any political purpose at any time. Use of other resources for political purposes must comply with existing local, state, and federal laws.

#### ***1.5 Academic Freedom***

- 1.5.1** Academic freedom is a foundation of any university community. The affirmation of academic freedom of students should be accepted as a reciprocal understanding among the individual student or groups of students and the faculty and administration. The student is not only privileged to think independently but, in the tradition of a university,

is responsible for developing independent thinking. The University seeks to provide and maintain an academic climate which is conducive to learning.

**1.5.2** Ball State University, as an institution of higher education, reaffirms the following policies to insure the academic freedom of students:

- a. That students have the right to the best education possible;
- b. That students have the rights and responsibilities for participation in policy and decision making and implementation in areas affecting student welfare;
- c. That students have inherent rights to the establishment and practice of representative self-government as set forth in the Constitution of the Student Government Association of Ball State University;
- d. That students have rights to and means whereby they may communicate their ideas and concerns to responsible authorities in the University;
- e. That students have the right to ready access to the spoken and printed word;
- f. That students have the right to express their thoughts and judgments concerning the professional competency of the faculty and professional personnel.

**1.5.3** All students are subject to the University policy on intellectual property, as amended from time to time. A copy of the University's Intellectual Property Policy is available for review on the University website at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx> or a copy can be obtained from the University Sponsored Programs Office. An excerpt of the Intellectual Property Policy specifically for students is included as Appendix P.

**1.5.4** If a student is concerned about any issue in the classroom, including a perceived academic freedom issue, this student may:

- a. Consult with the Assistant to the Vice President for Student Affairs in the Office of Student Affairs to explore options available to the student.
- b. Options available to the student include:
  - 1) The student may meet with the faculty or staff person to discuss the student's concerns and to come to an understanding about the situation.
  - 2) If resolution is not satisfactory, the student may request a meeting with the individual's department chair or supervisor to discuss the concern further.
  - 3) The chairperson or school director, will meet with all parties involved and will determine an appropriate resolution, conclusion or recommendations about the issue. The chairperson or school director will keep a written record of the issue and the conclusions and recommendations.
  - 4) If the student's concern involves a grade appeal issue, the student may be referred to the grade appeal process outlined in Section 6.7 of the *Code of Student Rights and Responsibilities*.

**1.6 Additional Rights and Responsibilities**

All students of Ball State University have other responsibilities based upon the nature of the educational process and the requirements of the search for truth and its free presentation. These rights and responsibilities include the following:

**1.6.1** Obligation to respect the freedom to teach, learn, and to conduct research and publish

findings in the spirit of free inquiry (i.e., without detriment to or denigration of other, especially untried, methods and/or subjects of inquiry).

- a. Institutional censorship and individual or group intolerance of the opinions of others are inconsistent with this freedom, it being understood that assigning priorities or ranking to investigative programs may be an administrative necessity.
- b. Freedom to teach and learn implies that students, faculty, and administrators have the responsibility to respect and consider suggestions without detriment to grade or positions of the persons submitting them.
- c. Free inquiry implies that faculty and/or faculty-directed student research—the results of which are predestined for classification under the National Security Act—may be conducted only under the conditions imposed by the statements in the *Faculty and Professional Personnel Handbook*, “On preventing conflicts of interest in government sponsored research at universities” and with prior knowledge of the intended restrictions to be placed on the distribution of the results.

**1.6.2** Obligation not to infringe upon the right of any of the members of the University community to privacy in office, laboratories, and residence and in the keeping of personal papers, confidential records and effects, subject only to the local, state and federal law and to conditions voluntarily entered into. Permanent records will not contain information concerning religion, political, or social beliefs, and membership in any organization other than honorary and professional organizations directly related to the academic processes, except upon expressed written request of the student in question.

**1.6.3** Obligation not to interfere with the freedom of members of the University community to pursue normal academic and administrative activities, including freedom of movement.

**1.6.4** Obligation not to interfere with the freedom of any member of the University community to hear and to study unpopular and controversial views on intellectual and public issues.

**1.6.5** Right to identify oneself as a student of the University and a concurrent obligation not to speak or act on behalf of the institution, or any group of students therein, without authorization.

**1.6.6** Right to hold public meetings in which students participate, to post notices, and to engage in peaceful, orderly demonstrations. Reasonable and impartially applied rules, designed to reflect the academic purposes of the institution and to protect the safety of the campus, shall be established regulating time, place, and manner of such activities and allocating the use of facilities in accordance with (1) Policy Concerning Campus Use: Regulations for Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity – Office of the Vice President for Business Affairs; (2) Policy on Selection and Presentation of Lecturers or Speakers by Student Organizations - *Faculty and Professional Personnel Handbook*; and (3) Policy on Special Events on Campus – *Faculty and Professional Personnel Handbook*.

**1.6.7** Right to recourse if another member of the University community is negligent or irresponsible in performance of his or her responsibilities, or if another member of the University community represents the work of others as his or her own.

**1.6.8** Obligation to maintain an environment conducive to respect for the rights of others and

fulfillment of *academic* responsibilities.

## **II. AUTHORITY**

### **2.1 Authority**

The Board of Trustees of Ball State University is empowered by the Indiana General Assembly to manage, control, and operate the institution and to promulgate rules and regulations to carry out its responsibilities. The Indiana statutes provide that the Board of Trustees may delegate this authority to its officers, faculty, employees, and others. The statutory authority conferred upon the Board of Trustees includes the specific authority under Indiana Code 21-39-2 to regulate the conduct of students and others as follows:

- a.** To govern, by regulation and other means, the conduct of students, faculty, employees, and others while upon the property owned, used, or occupied by the institution.
- b.** To govern, by lawful means, the conduct of its students, faculty and employees, wherever the conduct might occur, to prevent unlawful or objectionable acts that: (1) seriously threaten the ability of the institution to maintain its facilities; or (2) violate the reasonable rules and standards of the institution designed to protect the academic community from unlawful conduct or conduct presenting a serious threat to person or property of the academic community.
- c.** To dismiss, suspend, or otherwise punish any student, faculty member, or employee of the institution who violates the institution's rules or standards of conduct, after determination of guilt by lawful proceedings.

The Board of Trustees has delegated its authority to regulate the conduct of students to the President and to the Vice President for Student Affairs & Dean of Students, who in turn have further delegated to other Student Affairs staff the authority to implement and apply the Code of Conduct (section V) and the Disciplinary Procedures (section VI) set forth in this *Code of Student Rights and Responsibilities*. Whenever an action is permitted or required to be taken under this *Code of Student Rights and Responsibilities* by a University Officer or other employee, the action may be taken by that person's designee.

**2.2** The Code of Conduct and the Disciplinary Procedures set forth in this *Code of Student Rights and Responsibilities* may apply to off-campus as well as on-campus conduct, as is clear from the statutory authority described in Section 2.1(b) above allowing for the regulation of the conduct of students "wherever the conduct might occur." The *Code* applies to all conduct of students and student organizations on-campus. It also applies to certain off-campus conduct including:

- a.** Conduct that causes or threatens harm to the health or safety to the person or damage or destruction to the property of a member of the University community;
- b.** Conduct in connection with an academic course assignment, internship, practicum, field trip, student teaching, research or other University activity;
- c.** Conduct in connection with any activity sponsored, conducted or authorized by the University or by a student organization;
- d.** Conduct involving serious crimes including all crimes of violence, felonies or the sale or distribution of illegal drugs or controlled substances, if a police report has been filed, a summons or indictment has been issued, or an arrest has occurred; or



- e. Conduct adversely affecting the University community or indicating that the continued presence of a student on campus poses a threat to the student's well-being or the well-being of other members of the University community.
- 2.3 At the discretion of University officials, disciplinary action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of other proceedings.
- 2.4 **Application**—These policies and procedures, as from time to time amended, shall apply to all undergraduate and graduate students of Ball State University and shall be deemed a part of the terms and conditions of admission and enrollment of all students. These policies and procedures shall apply to a student's conduct even if the student withdraws from the University while a disciplinary matter is pending. These policies and procedures, and any amendments hereto, shall take effect on the date prescribed by the Board of Trustees and shall remain in effect until rescinded or modified by the Board of Trustees.
- 2.5 **Interpretation**—Any question of interpretation or application of the *Code of Student Rights and Responsibilities* shall be referred to the Vice President for Student Affairs and Dean of Students or his or her designee for final determination.
- 2.6 **Amendments and Review**—Amendments may be proposed by the Ball State Student Government Association, University Senate, administrative staff, or by the Board of Trustees. In addition, the *Code of Student Rights and Responsibilities* shall be reviewed at least every two years under the direction of the Director of Student Rights and Community Standards or other University official designated by the Vice President for Student Affairs and Dean of Students. **The Code was last reviewed and amended in 2014.**
- 2.7 **Notice**—A notice of the *Code of Student Rights and Responsibilities* will be sent at the beginning of each semester to the University community by email.

### III. EQUITABLE PROCEDURES

All students at Ball State University have a right to fair and equitable procedures for determining the validity of charges of violating University regulations.

- 3.1 These procedures shall be structured so as to facilitate a reliable determination of the truth or falsity of charges and to meet the fundamental requirements of fairness (i.e., right to notice of charge in advance, right to a hearing, right to examine evidence, right to prepare defense, right to appeal, and right to presence of counsel but not representation by counsel).
- 3.2 Students have the right to know in advance the range of penalties for violations of campus regulations. Upon request students have the right to obtain copies of all specific policies of the University (e.g., routine administrative policies, *Faculty and Professional Personnel Handbook*, etc.).
- 3.3 Charges of minor infractions of regulations, for which a student is penalized by fines or

reprimands, may be handled expeditiously by the appropriate individual or committee. Persons so penalized have the right to appeal to the next higher level of administration or to an established appeals committee.

- 3.4** In cases involving charges of infractions of regulations that may result in suspension or expulsion from the University, students have a right to formal procedures which include right of appeal. Any person penalized for a serious infraction of established University regulations or policies has the right to appeal, either to the next higher administrator or to an established appeals committee.
- 3.5** Students charged with or convicted of a violation of federal, state or local law (see Appendix R for policy requiring students to disclose a felony conviction occurring after admission to the University) may be subject to the University sanctions for the same conduct, in accord with established policies and procedures, when the conduct is in violation of a University rule which is important to the continuing protection of other members of the University or to the safeguarding of the educational process. At the discretion of University officials, disciplinary action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of criminal proceedings. Determinations made or sanctions imposed under this *Code of Student Rights and Responsibilities* shall not be subject to change because criminal charges arising out of the same set of facts giving rise to University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

#### **IV. DEFINITIONS**

The following definitions will be used in this *Code*:

- 4.1** **University** means Ball State University.
- 4.2** **University official** means any employee of the University performing administrative, professional, or staff responsibilities.
- 4.3** **Student** is defined as any person admitted to the University, registered or enrolled in classes either full-time or part-time, or otherwise associated with the University. Persons who withdraw after allegedly violating the *Code of Student Rights and Responsibilities*, or who are not officially enrolled for a given term but in a “continuing relationship” with the University, shall be considered “students.” Continuing relationship may include but is not limited to: students enrolled in a previous semester and registered or otherwise indicating intent to register for a future period of enrollment or; a student accepted for admission who has indicated intent to attend in a future period of enrollment.
- 4.4** **School day** means Monday, Tuesday, Wednesday, Thursday, and Friday. It does not include Saturday or Sunday, nor does it include any day on which there are no scheduled University classes.
- 4.5** **Business day** refers to any day, Monday through Friday, in which University offices are open.
- 4.6** **University activity** includes any teaching, research, service, administrative function,

proceeding, ceremony, or activity conducted or authorized by students, faculty, staff, or administrators that is held by the authority of the University.

- 4.7 University property** means property owned, controlled, used, or occupied by the university.
- 4.8 Written notice** is deemed to begin running on the first business day after the date such notice is mailed by the University, or immediately when the notice is hand delivered, delivered to a residence hall mailbox, or delivered to a student's University email in-box or forwarded to an alternative email address as directed by the student.
- 4.9 Members of the University community** include anyone who belongs to any of the following groups: students, faculty, professional personnel, staff personnel, service personnel.
- 4.10 Organization** means any group granted official recognition by the University after meeting established criteria for such recognition.
- 4.11 Judicial body** means any person or group of persons authorized by this *Code* to determine whether a student has violated any provision of the *Code*, to administer sanctions, or to grant appeals.

## **V. CODE OF CONDUCT**

Any student found to have committed or to have attempted to commit the following offenses is subject to the disciplinary sanctions outlined in sections VI and Section VII (*Student Academic Ethics Policy*).

### **5.1 Offenses Against Persons:**

- 5.1.1 Harassment** – Conduct towards another person or identifiable group of persons that has the purpose or effect of (a) creating an intimidating or hostile educational environment, work environment, or environment for participation in a University activity; (b) unreasonably interfering with a person's educational environment, living environment, work environment, or environment for participation in a University activity; or unreasonably affecting a person's educational or work opportunities or participation in a University activity. This offense also includes behaviors prohibited in *Sexual Harassment Policy, Appendix J, and Anti-harassment Policy, Appendix C*.
- 5.1.2 Hazing** - Any mental or physical action, requirement, request of, or obligation placed upon any person (including but not limited to a pledge, associate member, affiliate, prospective member, guest, initiate or team member) which could be harmful to the health, welfare or academic progress of the person, or which is personally degrading to the individual involved, or which has an adverse effect on the academic progress of the person, or which violates any federal, state, or local laws, or University policy. Individual acceptance of or acquiescence to any activity covered by the foregoing definition in no way validates or excuses the activity. (*See also University Anti-Hazing Policy, Appendix D*)

- 5.1.3 Harm, Threat or Endangerment** – Conduct that causes physical harm to any person is prohibited, as is any reckless or unauthorized conduct that threatens, endangers or reasonably could threaten or endanger the health or safety of any person. Conduct covered under this rule also includes but is not limited to intimidation, coercion, or impairment of any person’s freedom of movement as well as verbal or written threats of any action described above.
- 5.1.4 Privacy Violation**—Use of audio, video, or photographic devices to make an image or recording of an individual without that person's prior knowledge, or without that person’s effective consent, when such image or recording is likely to cause injury or distress as determined by a reasonable person. This includes, but is not limited to, surreptitiously taking pictures of another person in a private area such as a residence hall room, a public or private restroom, or a dressing/locker room.
- 5.1.5 Sexual Misconduct**—Sexual intercourse or sexual touching, however slight, by one person upon another without effective consent or when it involves compelling a person to submit to such conduct by force, threat of force, use of intoxicants to impair a victim’s ability to give consent or otherwise taking advantage of any impairment which might render a person incapable of making a reasonable or rational decision about sexual activity. As defined by the State of Indiana, sexual misconduct also includes any sexual act when the person is not of legal age. *This prohibition also includes behaviors outlined in the Sexual Misconduct Policy, Appendix K.*
- 5.1.6 Stalking**—Stalking is a knowing or intentional course of conduct that (1) would cause a reasonable person to feel frightened, harassed, intimidated, threatened, or alarmed and (2) that causes the person who is the subject or target of the stalking to feel frightened, harassed, intimidated, threatened, or alarmed. Such actions could be either implicit or explicit threats against a specific person; an acquaintance, friend, family member, or pet of that person; or that person’s property. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in an unsolicited fashion.
- 5.2 Offenses Related to the Operation of the University**
- 5.2.1 Academic Dishonesty.** Acts—which include but are not limited to cheating, plagiarism, falsely claiming to have completed work, cooperating with another person in academic dishonesty, knowingly destroying or altering another student’s work, or attempting to commit an act of academic dishonesty—that violate the *Student Academic Ethics Policy*. See also Student Academic Ethics Policy, section VII.
- 5.2.2 Aiding and Abetting** - Knowingly, recklessly, or willfully encouraging or assisting others to commit acts prohibited by this *Code*.
- 5.2.3 Computer Misuse** - Any behavior violating policies governing the use of the University’s computer system and related equipment/technology. *See also Information Technology Users’ Privileges and Responsibilities Policy, Appendix E.*
- 5.2.4 Disorderly Conduct** - Conduct that is disruptive of campus life or University activities,

or that is a matter of public indecency, or a breach of the peace.

- 5.2.5 Failure to Comply** - Failing to comply with verbal or written instructions of University officials acting in the performance of their duties and made within the scope of their authority, or failing to identify oneself upon request of a University official.
- 5.2.6 False Information**—Intentionally submitting false information, verbally or in writing, to a University official or office.
- 5.2.7 Fraudulent Use** - Forgery, alteration, taking possession of, or the unauthorized use of University documents, records, keys, or identification without the consent or authorization of appropriate University officials.
- 5.2.8 Interference with a Reprimand** - Obstructing or interfering with the reprimand, discipline, or apprehension of another person who is involved in a violation of this *Code* or any other University rule or regulation.
- 5.2.9 Obstruction or Disruption** - Obstructing or disrupting the teaching and/or learning process in any campus classroom, building, or meeting area, or any University-sponsored activity, pedestrian or vehicular traffic, classes, lectures or meetings, obstructing or restricting another person's freedom of movement, or inciting, aiding, or encouraging other persons to do so. *See also Regulations for Use of Property for Expressive Activity, Appendix N and Responding to Disruption in the Academic Setting, Appendix Q.*
- 5.2.10 Residence Hall Policies** - Violating residence hall rules and regulations, or the housing contract. *See also Residence Life Policies.*
- 5.2.11 Solicitation** - Engaging in solicitation of any type on University property without appropriate authorization. *See also Regulations for Use of Property for Expressive Activity, Appendix N, and Policy Concerning Campus Use: Regulations for Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity, Appendix S.*
- 5.2.12 Violation of the Law** - Committing or attempting to commit any act that would be a violation of local, state or federal law on or off University property, when such behavior is judged by the Office of Student Rights and Community Standards to be detrimental to the University's educational process or objectives.
- 5.2.13 Other Policy Violations** - Violating any other published University policies not specifically a part of this *Code*.

### **5.3 Violations That Compromise The Health/Safety/Welfare Of Others**

- 5.3.1 Alcohol** -Using, possessing or distributing alcoholic beverages except as expressly permitted by law and University policies. *See also Alcohol Policy, Appendix A.*
- 5.3.2 Arson** – Setting or attempting to set fires, or acting in a manner that disregards fire safety rules and results in a fire.

- 5.3.3 Drugs** - Using, abusing, possessing, selling, distributing, manufacturing, or transferring narcotics, illegal drugs as defined by federal, state, or local laws, or any controlled substance (including marijuana, inhalants, and abuse of over-the-counter drugs and prescription drugs), except as expressly permitted by law. Possession of drug paraphernalia which can be demonstrated to be linked to illegal drug activity is also a violation of this policy. *See also Drug Policy, Appendix B.*
- 5.3.4 False Reporting** - Falsely reporting an emergency.
- 5.3.5 Gambling** - Engaging in gambling, wagering, or other games of chance in violation of the law.
- 5.3.6 Smoking and Tobacco Use** - Smoking and the use of any other tobacco products (e.g., smokeless tobacco, electric cigarettes) are prohibited on Ball State campus. For the complete policy, including exceptions for the use in closed, personal vehicles and tailgating on home football weekends, *See Tobacco-Free Campus Policy, Appendix L.*
- 5.3.7 Tampering with Fire Equipment** - Unauthorized use, activation, or alteration of fire-fighting equipment, fire safety, or other emergency equipment.
- 5.3.8 Weapons** - Transferring, using, possessing, or manufacturing explosives, fireworks, firearms, dangerous chemicals, or any other weapons (deemed capable of causing bodily injury or property damage) on University property. *See also Weapons Policy, Appendix O.*
- 5.4 Offenses Against Property**
- 5.4.1 Misuse of Property** – Trespass, occupancy of, unauthorized entry into, possession of, receipt of, or use of the property of another person, of the University, or of University services, facilities, or resources including, but not limited to, the University’s name, seal, or insignia.
- 5.4.2 Theft**, Attempted or actual theft, unauthorized use, or possession of public property, University property, or personal property.
- 5.4.3 Vandalism** – Attempted or actual vandalism, damage to, or destruction of public property, University property, or personal property.
- 5.5 Offenses Involving The Judicial Process**
- 5.5.1 Improper Influence** – Influencing or attempting to influence the decision of a member of a judicial body or a designated judicial officer, or attempting to discourage that person’s participation in a judicial proceeding.
- 5.5.2 Intimidation of Participants** – Intimidating, coercing, influencing, or attempting to intimidate, coerce, or influence a witness, complainant, or other persons participating in the judicial process.

- 5.5.3 Providing False Testimony** - Providing false testimony or false information in the judicial process or knowingly making unfounded accusations against another individual.
- 5.5.4 Sanction Non-compliance** - Failing to complete or to comply with a disciplinary sanction.

## **VI. DISCIPLINARY PROCEDURES**

### **6.1 General Procedures**

- 6.1.1 Reporting an incident/Filing a complaint** - Any individual (student, employee of the University, or other person) who believes a student or student organization may have committed a violation of the *Code* published above, may file an incident report or complaint report with one of the following offices:

- University Police Department
- Office of Housing and Residence Life or with the Hall Director where a student lives or where the violation occurred
- Office of Recreation Services
- Office of Student Life
- Office of Student Rights and Community Standards

Employees of the University shall make reports to the Office of Student Rights and Community Standards of violations of the *Code* in cases where the offense must be reported to state and federal constituencies. That office shall inform University employees of what violations are included.

- 6.1.2 Types of adjudication** - Adjudication processes for students may vary according to the nature and severity of the case. Adjudication may occur in the administrative area where the violation occurred (e.g., Housing and Residence Life). Proceeding sections (6.2-6.5) outline procedures in administrative areas most likely to adjudicate complaints. Other offices, including but not limited to Study Abroad, are authorized to act on behalf of the University.

Administrative areas may resolve complaints of policy violations in a manner not addressed specifically by this *Code*. For example, students in study abroad experiences may find concerns addressed by faculty members or other administrators. When the offense is of a more serious nature and may warrant consideration of suspension or expulsion from the University, the case will be referred to the Office of Student Rights and Community Standards.

- 6.1.3 Good Neighbor Exception** - Students are always encouraged to call for emergency assistance as needed, even at the risk of disciplinary action for one's own conduct. When another person is in need of critical care or when a situation otherwise warrants emergency response, call 911 immediately. The Good Neighbor Exception provides students the opportunity for University disciplinary action to be waived if he/she risked revealing one's own violation of the *Code of Student Rights and Responsibilities* in order

to seek medical or other emergency assistance to another person in distress. The decision to provide the exception shall be the judgment of the designated hearing officer. **NOTE: The exception does not apply to any criminal charges that might be incurred as a result of an offense. See also Appendix A—Alcohol Policy.**

#### **6.1.4 Decision-making**

- a. Decisions in all hearings shall be based on a preponderance of the evidence.
- b. Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in *Code of Student Rights and Responsibilities* proceedings.

### **6.2 HOUSING AND RESIDENCE LIFE DISCIPLINARY PROCEDURES**

*(See also Housing and Residence Life Handbook for a detailed description.)*

When a violation occurs within or adjacent to facilities of Housing and Residence Life or in the context of programs sponsored by that office, the following disciplinary procedures apply.

After reviewing an incident report and related documentation the Housing and Residence Life (HRL) staff member (Residence Hall Director or RHD, Assistant Residence Hall Director or ARHD, or Assistant Director of Housing and Residence Life) shall have two options: (1) to provide the option of a preliminary meeting with the accused student or (2) to send a case directly to a disciplinary hearing.

#### **6.2.1 Preliminary Meeting** - Student meets with the designated HRL staff member to discuss the documentation. The following options are available:

- a. Student can plead “responsible” for the policy violation(s) and have the sanction determined at that time by the designated HRL staff member.
- b. Student can plead “not responsible” for the policy violation(s) and request a hearing with the appropriate hearing body. For most situations, the appropriate hearing will be a Hall Director Hearing. In situations where cancellation of the student’s housing contract is a possibility or if the student documented is already on disciplinary probation, the student may be offered the choice of having an Administrative Hearing or a Conduct Board Hearing. (Note: When the Conduct Board is not operating, the student is automatically assigned to an Administrative Hearing.)
- c. If the student does not attend the Preliminary Meeting, the designated HRL staff member will arrange a hearing.

#### **6.2.2 Housing and Residence Life Disciplinary Hearings**

- a. Hall director hearings are conducted by an RHD or ARHD. Usually this will be the RHD or ARHD of the building in which the accused student resides.
- b. Administrative Hearings are conducted by an Assistant Director of Housing and Residence Life.
- c. Conduct Board Hearings are conducted by a board composed of a group of qualified students selected by each residence hall.

#### **6.2.3 Appeal Process**

- a. A student may appeal the result of a Hall Director Hearing decision to the appropriate Assistant Director of Housing and Residence Life.
- b. Decisions by a Conduct Board Hearing or Administrative Hearing may be appealed to the



Associate Director of Housing and Residence Life.

- c. A student has two business days from the delivery of the original decision to the student's mailbox in which to submit an appeal in writing.
- d. A student may appeal based on the following reasons:
  - 1) A substantial procedural error that unreasonably impaired the student or the hearing body.
  - 2) An unduly harsh sanction against the accused student.
  - 3) New information of a substantive nature not available at the original hearing.
  - 4) Information of substantial bias on the part of the disciplinary body hearing the case.
- e. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld.
  - 2) Modified sanctions, either greater or lesser, may be imposed.
  - 3) The case may be remanded back for a new hearing.
  - 4) All allegations may be dismissed.
- f. The appellate decision shall be final and will not be subject to any further appeal.

#### **6.2.4 Referrals to the Office of Student Rights and Community Standards**

Any case may be referred to the Office of Student Rights and Community Standards for adjudication or for consideration of additional sanctions when:

- a. Violations are of a more serious nature and may warrant consideration of suspension or expulsion from the University.
- b. Violations involve off-campus students.

### **6.3 RECREATION SERVICES DISCIPLINARY PROCEDURES**

When a violation occurs within or adjacent to facilities of the Office of Recreation Services or in the context of programs sponsored by that Office, the following disciplinary procedures apply.

#### **6.3.1 Preliminary Meeting**

- a. Pending results of an investigative review of an incident, the student's I.D. or Recreation Privilege Card will be "turned off" and the student will not have the privilege of utilizing facilities or programs within Recreation Services.
- b. A preliminary meeting will be convened in a timely manner with the student(s) in question and a designated Recreation Services staff person (Graduate Assistant or Assistant Director for Recreation Services) to discuss the incident.
- c. The student may plead "responsible" for the behavior and the staff member may assign sanctions.
- d. If a student pleads "not responsible" for the behavior, the case will be referred to an Administrative Hearing.
- e. A student who fails to appear for a Preliminary Meeting will have their case referred to an Administrative Hearing.

#### **6.3.2 Recreation Services Administrative Hearing**

- a. Administrative Hearings are conducted by a designated Recreation Services staff person (Assistant Director or Associate Director for Recreation Services). The student(s) will be given the opportunity to present witnesses or other evidence to support their claims. The staff person conducting the hearing will determine responsibility and, if necessary, assign sanctions.
- b. A written notice indicating the findings of the hearing and sanctions will be mailed to the student's known address.

- c. When a violation is believed to be a team violation, that team may be represented at the Administrative Hearing by the team captain or another designated team member. Sanctions may be administered collectively to the team or individually against team members.

### **6.3.3 Appeal Process**

- a. Students have an opportunity to appeal any decision of discipline from any member of Recreation Services staff.
- b. All appeals of disciplinary decisions must be directed to the Associate Director of Recreation Services. All appeals of disciplinary decisions must be made in writing within three business days of the receipt of the original decision.
- c. A student may appeal based on the following reasons:
  - 1) A substantial procedural error that unreasonably impaired the student or the hearing body.
  - 2) An unduly harsh sanction against the accused student.
  - 3) New information of a substantive nature not available at the original hearing.
  - 4) Information of substantial bias on the part of the disciplinary body hearing the case.
- d. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld.
  - 2) Modified sanctions, either greater or lesser, may be imposed.
  - 3) The case may be remanded back for a new hearing.
  - 4) All allegations may be dismissed.
- e. Appeal decisions shall be based solely upon the written documentation of the incident and a written statement of appeal from the patron.
- f. The appellate decision shall be final and will not be subject to any further appeal.

### **6.3.4 Referrals to the Office of Student Rights and Community Standards**

Any case may be referred to the Office of Student Rights and Community Standards for adjudication or for consideration of additional sanctions when:

- a. Violations are of a more serious nature and may warrant consideration of probation, suspension or expulsion from the University.
- b. The complexity and nature of the violation warrants referral.

## **6.4 STUDENT ORGANIZATIONS AND ACTIVITIES DISCIPLINARY PROCEDURES**

A recognized student organization and/or its members, collectively or individually (when acting as part of the organization), may be held responsible for violations of the *Code* and, when appropriate, be subjected to disciplinary action. When a student organization is accused of committing a violation of University policy, (including but not limited to any violation of published University policies and procedures) or local, state, or federal laws, a complaint may be filed with Office of Student Life. Upon receipt of such a complaint, the Assistant Vice President for Student Affairs/Director of Student Life (or his/her designee) shall conduct an investigation and determine if a hearing will be held regarding the complaint.

- a. When the accused organization is a fraternity or sorority, the Assistant Vice President for Student Affairs/Director of Student Life may choose to refer the case to the appropriate Greek governing Board (IFC, PHC, or NPHC) for investigation and adjudication.
- b. If it is determined that the alleged violations are by individuals but not collectively by the organization, the case will be referred to the Office of Student Rights and Community Standards for adjudication.

- c. If an organization is accused of a severe policy or risk management violation (including but not limited to hazing, fighting, or other physical violence, or egregious violation involving alcohol or illegal drugs) the adjudication for the organization can be handled through an administrative hearing by the Assistant Vice President for Student Affairs/Director of Student Life or appropriate Student Life staff members.
- d. If the allegation involves club sports, the administrative hearing will be done in consultation with the Director of Recreation Services or his/her designee.
- e. All other cases may be referred to the Student Organization Hearing Board for adjudication.

#### **6.4.1 Adjudication Procedures**

If a formal hearing is warranted, the following procedures apply for disciplinary cases involving a student organization:

- a. ***Selection of Hearing Board.*** The Hearing Board will consist of five (5) members, three (3) to be selected from the Judicial Court of the Student Government Association, one (1) member being a current faculty/staff advisor of a recognized student organization and one (1) Student Affairs professional staff member selected in consultation with the Vice President for Student Affairs & Dean of Students. A chairperson will be selected from within the committee. The Assistant Vice President for Student Affairs/Director of Student Life (or his/her designee) will serve as an advisor and ex-officio member to the Board, will take minutes and will answer procedural questions but will not vote.
- b. ***Quorum.*** Four (4) of the five (5) voting members of the Hearing Board must be present to **constitute** a quorum.
- c. ***Notice of Hearing.*** The President or highest-ranking officer of the student organization shall be notified in writing by the Assistant Vice President for Student Affairs/Director of Student Life of the date, time, and place of the hearing at least three (3) business days before the hearing. The notice shall also include a statement of the allegations of policy violations and information regarding the student organization's rights in the hearing.
- d. ***Absence of the Accused Organization.*** The accused student organization may choose not to attend the hearing and may instead submit a written presentation of its case. The hearing may proceed in the absence of the accused. By such absence, the accused organization forfeits its right to question witnesses.
- e. ***Witnesses.*** The representative officer of the accused student organization, the complainant, and the Assistant Vice President for Student Affairs/Director of Student Life or his/her designee may invite persons who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Hearing Board may limit the number of witnesses to avoid repetition and cumulative testimony. The Board may also limit the testimony of character witnesses to the sanctioning phase of the hearing. The names of witnesses and written disclosure of the main points of their testimony must be provided to the Assistant Vice President for Student Affairs/Director of Student Life a minimum of twenty-four (24) hours before the hearing. Each party shall be responsible for insuring the presence of his/her witnesses at the hearing and shall be prohibited from submitting a written statement in lieu of personal testimony, unless otherwise permitted by the Hearing Board to do so as a result of extenuating circumstances. Witnesses invited by either party shall be present only while they are testifying.
- f. ***Student Organization Assistance.*** The officer of the student organization may be accompanied and assisted at the hearing by an advisor of the student organization's choice, provided the advisor is an employee or student of the University. For Greek

organizations, a chapter advisor and/or chapter representative may also accompany the officer. In the event a student organization faces pending criminal or civil charges based on the incident that has given rise to the University disciplinary proceedings, the organization's attorney may accompany the officer of the student organization. The student organization must provide the name of the advisor to the Assistant Vice President for Student Affairs/Director of Student Life at least twenty-four (24) hours before the hearing. At no time may the advisor or attorney participate directly in the hearing proceedings. He/she may only consult with the student representing the organization.

- g. *Disqualification; Challenges.*** Any Hearing Board member may disqualify himself/herself if he or she has a conflict of interest with the case, with the accused student organization, with the complainant, or when the Board member feels a personal bias makes it impossible to render a fair decision. The accused student organization or the complainant may challenge a Hearing Board member on the grounds of conflict of interest or personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the chairperson may, at his/her discretion, either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the Hearing Board.
- h. *Conduct of the Hearing.*** The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Hearing Board with a complete understanding of the facts involved. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. The hearing and the deliberations of the Hearing Board shall be private. The Office of the Assistant Vice President for Student Affairs/Director of Student Life shall make a record of the hearing which may be reviewed in that office by a designated representative of the accused student organization upon request. Decisions of the Hearing Board shall be made by majority vote.
- i. *Continuances.*** The Hearing Board, by majority vote, may continue the hearing to a later time.
- j. *Additional Rules.*** Procedural rules not inconsistent with these procedures may be established by the Hearing Board from time to time to fulfill its functions in an orderly manner.

#### **6.4.3 Decisions**

The decision of the Hearing Board shall be submitted as a recommendation to the Assistant Vice President for Student Affairs/Director of Student Life who may do one of the following:

- a.** Accept the recommendation and direct that the sanctions be implemented;
- b.** Lessen or otherwise modify the sanctions imposed by the Hearing Board;
- c.** Refer the case back to the Hearing Board for further consideration of sanctions.

#### **6.4.4 Appeal Process**

- a. *Appellate Review.*** The appellate review will be based on the information and materials in the case file; a summary of the evidence submitted; findings and recommendations; the student organization's written request for an appellate review; and the record of the hearing.
- b.** A student organization may appeal the result of an administrative hearing decision to the next level administrator.
- c.** Decisions by the Hearing Board may be appealed to the Vice President for Student Affairs & Dean of Students or his/her designee.

- d. In both cases, the student organization has five (5) business days from receipt of the original decision in which to submit an appeal in writing.
- e. The organization may appeal based on the following reasons:
  - 1) A substantial procedural error that unreasonably impaired the student organization or the hearing body.
  - 2) An unduly harsh sanction against the accused student organization.
  - 3) New information of a substantive nature not available at the original hearing.
  - 4) Information of substantial bias on the part of the disciplinary body hearing the case.
- f. An appeal may be resolved in one of the following ways:
  - 1) The original decision may be upheld.
  - 2) Modified sanctions, either greater or lesser, may be imposed.
  - 3) The case may be remanded back for a new hearing.
  - 4) All allegations may be dismissed.
- g. Appeal decisions shall be based solely upon the written documentation of the incident and a written statement of appeal from the organization.
- h. The appellate decision shall be final and will not be subject to any further appeal.

## **6.5 OFFICE OF STUDENT RIGHTS AND COMMUNITY STANDARDS DISCIPLINARY PROCEDURES**

### **6.5.1 Preliminary Meeting**

The preliminary meeting is an initial meeting with a designated Student Rights and Community Standards staff person (Director or a Graduate Assistant) at which time the accused student is made aware of University disciplinary procedures, the nature of the complaint and alleged violations, and the range of sanctions possible for that type of offense. The student is also given an opportunity to respond to the complaint. Based on the information available, the Director or designee may: dismiss some or all of the alleged violations; continue an investigation into the complaint to determine if the allegations have merit; refer the complaint to an alternative resolution process with the mutual consent of the parties involved and if such referral is acceptable to the Director; or charge the student with one or more violations of the *Code of Student Rights and Responsibilities*.

If charged by the designated staff person with a violation(s) of the *Code*, the student is also informed of his/her options in adjudicating the violation(s), including one of the following:

- a. To plead “responsible” for the violation, request an informal resolution in lieu of a hearing, and have the sanctions determined at that time by the staff person. The designated staff person conducting the preliminary meeting may choose to refer the determination of sanctions to a hearing board if the level of offense warrants more serious sanctions than that staff person is authorized to impose. As part of an informal resolution, the Director of Student Rights and Community Standards may impose sanctions indicated in section 6.6.4 up to and including suspension from the University but not expulsion or revocation of admission or degree.
- b. To plead “not responsible” for the violation and request a hearing. In the case of minor offenses, the designated staff person may choose to hear the case administratively or to refer the case to another administrative hearing officer. Cases that are complicated in nature and scope, or where the violations may result in more serious sanctions, are referred to the University Review Board.

### 6.5.2 Administrative Hearing

The case is heard before a designated hearing officer who will determine if a student is in violation based on information provided and will determine sanctions rising to the level of disciplinary probation. The student will receive notification of the hearing at least three (3) business days in advance, shall have an opportunity at the hearing to call witnesses on his/her behalf, and shall be able to ask questions of witnesses.

### 6.5.3 Interim Suspension

Under certain circumstances, a student accused of a violation of the *Code of Student Rights and Responsibilities* may be subject to interim suspension from the University prior to a University Review Board hearing. During the interim suspension, the student is subject to trespass from University property and facilities and is denied access to all classes, activities and privileges for which the student might be eligible. Interim suspension shall be imposed only when:

- a. A student is deemed to be a threat to the safety and well-being of the University community or property, or
- b. It is determined that such action would be beneficial to the student's own safety and well being, or
- c. A student's presence is deemed to pose a substantial threat of disruption to the University's educational process.

The decision to suspend on an interim basis shall be made by the Vice President for Student Affairs & Dean of Students or his/her designee. The student will be notified in writing of this action and the reasons for the interim suspension. The notice should include the time, date, and place of a subsequent hearing within three business days at which the student may show cause why his or her continued presence on the campus does not constitute a threat [and at which they may contest whether a violation of the *Code of Student Rights and Responsibilities* took place]. The interim suspension may continue until the entire disciplinary process including appeal, is completed. Every effort will be made to complete the disciplinary process in a timely manner so as to limit the interim suspension to the shortest time possible.

### 6.5.4 University Review Board

The University Review Board hears disciplinary cases referred to it by the Director of Student Rights and Community Standards or designee. It is composed of students, University faculty members, and/or professional staff members.

- a. ***Student Membership.*** The student membership will include the Vice President of the Student Government Association, five (5) members of the Judicial Court of Student Government Association and four (4) additional students appointed by the Student Government Association. The Judicial Court members typically are elected by students in the spring, assume their committee responsibilities on the first day of fall semester and shall hold office for one calendar year. Other appointed students also typically assume responsibility at the start of the fall semester and serve for one calendar year. The dates of elections, appointments, and assumption of responsibilities may vary per agreement with the Student Government Association. A student member may serve an unlimited number of terms. If insufficient student members have been appointed by the Student Government Association when a hearing is required, the Director has the discretion to utilize non-appointed students in order to provide a timely process.
- b. ***Faculty and Professional Staff Membership.*** The faculty and professional staff members shall be selected by the University Senate's Governance Committee to assume their

committee responsibility on the first day of fall semester and serve for one calendar year. A faculty or professional staff member may serve an unlimited number of terms. If insufficient faculty or professional staff members have been appointed by the appropriate governance committee when a hearing is required, the Director has the discretion to utilize non-appointed employees in order to provide a timely process.

- c. ***Quorum.*** To conduct a hearing for a student disciplinary case, a Hearing Board composed of a minimum of four (4) members of the University Review Board, of whom at least two (2) must be students and two (2) must be faculty and/or professional staff, will be designated by the Director of Student Rights and Community Standards or his/her designee. A hearing may proceed with a minimum of 3 members present.
- d. ***Hearing Board Chairperson.*** The hearing shall be chaired by one member of the Hearing Board designated in advance by the Office of Student Rights and Community Standards. The chairperson shall be a voting member of the Board. The Director of Student Rights and Community Standards or his/her designee will be present at all hearings as a non-voting consultant to the Hearing Board.
- e. ***Hearings During Summer Session and Breaks.*** To insure the functioning of the Hearing Board during Summer Session and at other times when regular classes are not in session, the Director of Student Rights and Community Standards or his/her designee may convene a University Review Board hearing with a minimum of three persons chosen from the pool of the University Review Board membership who are available. Should a minimum of three be unavailable from the University Review Board pool, the Director may select additional faculty, staff or student members to participate in the hearing process.

#### **6.5.5 Procedures for Disciplinary Hearings.**

Procedures for disciplinary cases of the Hearing Board shall be as follows:

- a. ***Written Notice of Hearing.*** The accused student(s) shall be notified by the Office of Student Rights and Community Standards in writing of the date, time, and place of the hearing at least three (3) school days before the hearing. This notice shall also include a statement of the allegations of policy violations, information about the hearing process, and the range of sanctions available. In cases where there are multiple accused students, the Director of the Office of Student Rights and Community Standards has the discretion to convene one hearing or separate hearings for the accused students.
- b. ***Absence of the Accused Student.*** The accused student may choose not to attend the hearing and may instead submit a written presentation of his/her case. The hearing may proceed in the absence of the accused. By such absence, the accused forfeits his/her right to question witnesses.
- c. ***Witnesses.*** The accused student, the complainant and the Director of Student Rights and Community Standards or his/her designee may invite persons who have information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Hearing Board may limit the number of witnesses to avoid repetition and cumulative testimony. The names of witnesses and written disclosure of the main points of their testimony must be provided to the Office of Student Rights and Community Standards a minimum of twenty-four (24) hours before the hearing. Each party shall be responsible for insuring the presence of his/her witnesses at the hearing or delivery of a written or recorded statement in lieu of personal testimony. Witnesses invited by either party shall be present only while they are testifying. Character witnesses may not provide testimony directly to the Board but may provide written statements to be disclosed only if a student is found responsible. Character witness statements will be considered for sanctioning

purposes only.

- d. ***Student Assistance.*** The accused student and the complainant may be accompanied and assisted at the hearing by an advisor of their choice. The student must provide the name of his/her advisor to the Office of Student Rights and Community Standards at least one business day before the hearing. At no time may the advisor participate directly in the hearing proceedings. He/she may only consult with the student.
- e. ***Disqualification, Challenges.*** Any Hearing Board member may disqualify himself/herself if he or she has a conflict of interest with the case, with the accused student, with the complainant, or when the Board member believes a personal bias makes it impossible to render a fair decision. The accused student or complainant may challenge a Hearing Board member on the grounds of conflict of interest or personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the chairperson may, at his/her discretion, either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of the remaining members of the Hearing Board.
- f. ***Conduct of the Hearing.*** The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Hearing Board with a complete understanding of the facts involved. The chairperson may limit questioning deemed to be irrelevant, immaterial, and unduly repetitious. The hearing and the deliberations of the Hearing Board shall be private. Decisions of the Hearing Board shall be made by majority vote.
- g. ***Record of the Hearing.*** There shall be a single verbatim record, such as an audio recording, of all University Review Board hearings (not including deliberations). Deliberations shall not be recorded. No other recording shall be made. The accused student may review the recording in the Office of Student Rights and Community Standards upon request. The recording shall be the property of Ball State University and shall be maintained by the Office of Student Rights and Community Standards until the conclusion of all appeal proceedings, until the appellate term has surpassed, or as required by law. Preliminary meetings, witness and other interviews, or administrative hearings may be recorded.
- h. ***Continuances:*** The Hearing Board, by majority vote, may continue the hearing to a later time.
- i. ***Additional Rules:*** Procedural rules not inconsistent with this process may be established by the Hearing Board from time to time to fulfill its functions in an orderly manner.

#### **6.5.6 The Decision**

The decision of the Hearing Board shall be submitted as a recommendation to the Director of Student Rights and Community Standards who may do one of the following:

- a. Accept the recommendation and direct that the sanctions be implemented.
- b. Lessen or otherwise modify the sanctions imposed by the Hearing Board.
- c. Refer the case back to the Hearing Board for further consideration of sanctions.

#### **6.5.7 Appeal Process**

- a. Students may appeal the result (finding and sanctions) of an Administrative Hearing decision to the next level administrator.
- b. Decisions by the Hearing Board (including accepted sanctioning recommendations) may be appealed to the Vice President for Student Affairs & Dean of Students or his/her



- designee.
- c. In both levels of cases, the student has three (3) business days from receipt of the original decision in which to submit an appeal in writing.
  - d. Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the University Review Board hearing and supporting documents.
  - e. A student may appeal based on the following reasons:
    - 1) A substantial procedural error that unreasonably impaired the student or the hearing body.
    - 2) An unduly harsh sanction (appeal by the accused student) or an insufficient sanction (appeal by the complainant).
    - 3) New information of a substantive nature sufficient to alter a decision, because such information and/or facts were not known to the person appealing at the time of the original hearing.
    - 4) Information of substantial bias on the part of the disciplinary body hearing the case
  - f. An appeal may be resolved in one of the following ways:
    - 1) The original decision may be upheld.
    - 2) Modified sanctions, either greater or lesser, may be imposed.
    - 3) The case may be remanded to the Hearing Board reconstituted with new members to allow reconsideration of the original determination and/or sanctions.
  - g. The appellate decision shall be final and not subject to any further appeal.

## 6.6 Sanctions

6.6.1 **Housing and Residence Life** administrators may impose one or more of the following sanctions when a student is found responsible for violations of the *Ball State Code of Student Rights and Responsibilities* or the *Housing and Residence Life Handbook*:

- a. **Official Reprimand** - A written warning that the continuation or repetition of unacceptable conduct may lead to further disciplinary action.
- b. **Educational Requirements** - A student may be required to do interviews, a research project, a reflection paper, University or community service, or other type of assignment to provide a learning experience related to the violation.
- c. **Fines** - A fine may be assessed, not to exceed \$24, and will be billed to the student's account. Failure to pay a fine will result in a financial hold.
- d. **Restitution** - A student, whose actions cause damage to public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property or for medical bills related to injuries.
- e. **Referral** - The student may be referred to an appropriate University service office or to an outside agency to assist that student in achieving personal, social, or emotional growth.
- f. **Alcohol Education Program** - A student in violation of published alcohol policies or who exhibits inappropriate behavior as a result of alcohol consumption may be required to complete an alcohol education program.
- g. **Disciplinary Probation** - For a specified period of time during which the student must demonstrate a willingness and ability to conform to all University regulations. Any violation of University policy while on Disciplinary Probation may result in referral to the University Review Board with the possibility of suspension or expulsion from the University.

- h. Trespass** - A student may be prohibited from entering or being on the premises of specific residence hall buildings or all residence facilities.
- i. Relocation** - A student may be relocated to another residence hall and subsequently restricted from the facility of a previous housing assignment.
- j. Termination of Housing Contract** - A student may have his/her housing contract terminated and be required to vacate the residence hall system. The student will be given at least 48 hours to vacate the residence halls. Any additional violation occurring prior to vacating the residence halls will be referred to the Office of Student Rights and Community Standards. Students, who are under the age of 21, have not lived two semesters in the residence halls, and are freshmen will be subject to a review of their enrollment status.

6.6.2 **Recreational Services** administrators may impose one or more of the following sanctions when a student is found responsible for violations of the Ball State *Code of Student Rights and Responsibilities* or Ball State *Recreation Guidelines* found at <http://www.bsu.edu/recreation>:

- a. Official Reprimand** - Statement of warning provided verbally or in writing stating that the continuation of or repetition of unacceptable behavior may lead to further disciplinary action.
- b. Suspension** - Suspension from Recreation Services facilities or programs for a pre-determined period of time.
- c. Forfeit** - Forfeiture of any outcomes of previous activities.
- d. Restitution:** A student, whose actions cause damage to public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property or for medical bills related to injuries.
- e. Disciplinary Probation:** For a specified period of time during which the student must demonstrate a willingness and ability to conform to all University regulations. Any violation of University policy while on Disciplinary Probation may result in referral to the University Review Board with the possibility of suspension or expulsion from the University.

6.6.3 **Office of Student Life** Hearing Boards may recommend one or more of the following sanctions when a recognized student organization is found responsible for violations of the Ball State *Code of Student Rights and Responsibilities* or the *Handbook for Student Organizations*:

- a. Official Reprimand** - A letter of notification placed in the organization's file and sent to its national organization (if applicable) warning of more severe sanctions in the event of a repeat of the offending behavior.
- b. Probation** - A specific period of probation with or without selected restrictions; the Hearing Board shall determine the length and terms of the probationary period.
- c. Restitution** - An organization, whose actions cause damage to public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property or for medical bills related to injuries. Each member of the organization may be held financially responsible through group billing.
- d. Service Requirement** - Participation in University or community service activities.
- e. Educational Requirement** - Educational programming hosted and/or attended by a percentage of organization membership.

- f. **Suspension of Recognition** - suspension of recognition as a student organization and the privileges inherent in that recognition indefinitely or for a specific period of time.
- g. **Withdrawal of Recognition** - Withdrawal of University recognition as a student organization.

6.6.4 **Student Rights and Community Standards** administrators may impose any of the sanctions listed above in cases referred by offices listed above and one or more of the following sanctions when a student is found responsible for violations of the Ball State *Code of Student Rights and Responsibilities* or the *Handbook for Student Organizations*:

- a. **Official Reprimand** - a written warning that the continuation or repetition of unacceptable conduct may lead to further disciplinary action.
- b. **Educational Requirements** - student may be required to do interviews, a research project, a reflection paper, University or community service or other type of assignment to provide a learning experience related to the violation.
- c. **Restitution** - a student whose actions cause damage to, defacing of or destruction of public or private property or injury to another person, may be required to provide monetary reimbursement for restoration of or replacement of property for medical bills related to injuries.
- d. **Referral** - the student may be referred to an appropriate University service office or to an outside agency to assist that student in achieving personal, social or emotional growth.
- e. **Disciplinary Probation** - for a specified period of time during which the student must demonstrate a willingness and ability to conform to all University regulations. Any violation of University policy while on Disciplinary Probation may result in referral to the University Review Board with the possibility of suspension or expulsion from the University.
- f. **Trespass** - a student may be prohibited from entering or being on the premises of specific locations, facilities or buildings or the entire campus.
- g. **Restriction and Loss of Privileges** - denial or restriction of specified privileges (including contact with a specific person or persons) for a designated period of time.
- h. **Suspension** - termination of enrollment indefinitely or for a specific period of time. During the period of suspension, the student is issued a trespass notice and may not be present on University property at any time or attend any University-sponsored event or activity without prior authorization by the Office of Student Rights and Community Standards. Conditions of re-enrollment following a period of suspension may be determined by the University Review Board and/or the Office of Students Rights and Community Standards.
- i. **Expulsion** - permanent termination of enrollment. Upon expulsion, the student is issued a trespass notice and may not be present on University property at any time or attend any University-sponsored event or activity without prior authorization by the Office of Student Rights and Community Standards.
- j. **Revocation of Admission and/or Degree** - admission to or a degree awarded from Ball State University may be revoked for fraud, misrepresentation, or other violation of Ball State standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.

## 6.7 Grade Appeals

### 6.7.1 Introduction

- a. This process includes any appeal of a final grade (pass-fail or letter grade) for a course, field experience, clinical, student teaching, practicum, internship, or externship. *Appeal of an involuntary removal from a course in the middle of a term would be subject to departmental or program procedures, not the grade appeal process, unless a failing grade was issued.* A student who is considering an appeal of a final grade is encouraged to meet informally with his/her instructor before submitting a written appeal.
- b. Grades issued for examinations, individual papers, quizzes, portfolios and other grades that are not final grades are not eligible for consideration for the University Grade Appeal process as discussed in section 6.7.3.
- c. This appeal procedure is not to be used for a review of the judgment of an instructor in assessing the quality of a student's work or to complain of an instructor's performance.
- d. Time deadlines in the following procedures are intended to provide a framework for the grade appeal process and may be extended, as circumstances warrant, by the Director of Student Rights and Community Standards or by the Associate Provost.
- e. This policy will be reviewed by the Ball State Grade Appeals Committee at its meeting each academic year.
- f. The Office of Student Rights and Community Standards will provide an annual notice by email of the grade appeal policy to students and faculty and will provide a paper copy of the policy to those persons who request one.
- g. Faculty members are encouraged to note the grade appeal policy and provide the link [www.bsu.edu/studentrights/gradeappeal](http://www.bsu.edu/studentrights/gradeappeal) in their syllabi.

### 6.7.2 Department Grade Appeal Process

- a. A student who wishes to appeal a final grade must send to the instructor a request for reconsideration of the grade with a rationale for reconsideration. The request shall be in writing (email preferred) and sent to the instructor within ten (10) school days after the final grade is posted by the Registrar's office.
- b. The instructor shall respond in writing (email preferred) with a decision regarding the student's grade within five (5) school days after receiving the request.
- c. If the instructor does not respond within the five day period in (b) above, the student may choose to send the appeal request to the unit head (e.g., department chair or program director) of the department or program that offers the class for a response.
- d. If the instructor responds within the five (5) school day period with a decision with which the student does not agree and the student wishes to proceed with an appeal, the student shall send written request (email preferred) for review of the grade to the unit head within five (5) days of receiving the response from the instructor. The written communication to the unit head should provide detailed information regarding the disputed grade including the written exchanges with the instructor.
- e. The unit head shall respond in writing (email preferred) to the student within five (5) school days of receiving the student's request for a review of the grade. The unit head's response should outline the details of the resolution. If the unit head cannot resolve the dispute, his/her communication to the student should refer the student to the University Grade Appeal process (e.g., a link to the Grade Appeal policy at

[www.bsu.edu/studentrights/gradeappeal](http://www.bsu.edu/studentrights/gradeappeal) and/or the Student Rights and Community Standards office).

- f. The student may then choose to proceed with a university-level grade appeal as described below.

### 6.7.3 University Grade Appeal Process

**a. Formal appeal.** If the matter cannot be resolved satisfactorily at the unit level, the student may request consideration of a University grade appeal hearing. The University grade appeal process consists of the following steps:

- 1) The student must submit a formal appeal of the grade in writing (email preferred) to the Director of the Office of Student Rights and Community Standards ([stdtrights@bsu.edu](mailto:stdtrights@bsu.edu)) or designee (Director) within five (5) school days after notification from the unit head.  
*Note: a sample structure for the appeal is available at [www.bsu.edu/studentrights/gradeappeal](http://www.bsu.edu/studentrights/gradeappeal).*
- 2) The appeal shall clearly include the criterion or criteria on which the appeal is based and a supporting argument for each criterion cited in the appeal with evidence that supports that argument. See 6.7.3.b below for the criteria for appeals.
- 3) The appeal also shall include all written exchanges with the instructor and unit head regarding the grade appeal. The written exchanges must include the original date stamps. Direct forwards of emails to the Director are acceptable and preferred.
- 4) The appeal also should include the following components:
  - a. The student's full name, email address, telephone number and local mailing address;
  - b. The class name, number, and section number of the class in which the grade was received (e.g., SRCS 100, section 002, Introduction to Grade Appeals);
  - c. The instructor's name;
  - d. The semester in which the class was taken;
  - e. The grade received;
  - f. The grade expected to have been received;
- 5) Once the appeal has been received, the Director shall review the appeal to determine if the student has complied with grade appeal procedures, met the required deadlines and provided the information noted in 2) and 3) above. If the student's appeal does not comply with grade appeal procedures, meet required deadlines, or provide information noted in 2) and 3) above, the Director may inform the student that the appeal does not meet requirements and terminate the appeal request.
- 6) If the Director determines that the appeal meets the requirements in 2) through 4), the Director shall forward the student's appeal to the instructor by email (with copy to unit head) and solicit the following:
  - a. a written response from the instructor;
  - b. a copy of the syllabus for the appropriate class; and
  - c. any other materials relevant to the grade appeal (e.g., rubric, class grades, etc.).
- 7) The instructor is expected to respond to the Director's request within five (5) school days. Upon receipt of the materials from the instructor, a screening committee comprised of the Director, the Associate Provost or designee, and the Vice President of the Student Government Association or designee will review the appeal request and make a decision on whether to refer the appeal to the University Grade Appeal Committee for a hearing. The decision to refer, or not to refer, the appeal for a hearing shall be based upon the student's compliance with grade appeal procedures, the written request for appeal and the criteria cited within the written appeal.

- 8) If the decision is not to forward the appeal to a hearing, the appeal will be rejected and the matter is concluded. The Director shall inform the student in writing of the decision and the matter is concluded.
- 9) If the appeal is approved for further review, the Director shall inform the student in writing of the decision and convene a University grade appeal hearing as described below.
- 10) The notification to the student as described in 8) and 9) above should take place within ten (10) school days after receipt of the formal appeal.

**b. Basis for Grade Appeals.** The University Grade Appeal Committee will only address those appeals for which a procedural or fairness issue is in question. The criteria for a grade appeal are:

- 1) An obvious error in the calculation of the grade.
- 2) The assignment of a grade to a particular student by application of more exacting or demanding standards than were applied to other students in the course.
- 3) The assignment of a grade to a particular student on some basis other than performance in the course.
- 4) The assignment of a grade by a substantial departure from the instructor's previously announced standards.

#### **6.7.4 University Grade Appeal Committee**

The University Grade Appeal Committee hears grade appeals referred to it by the Office of Student Rights and Community Standards after the screening process described above is concluded. It is composed of fourteen (14) members; seven (7) shall be students and seven (7) shall be University faculty members.

- a. Student Membership.** The student membership will include one undergraduate or graduate student appointed by each of the seven college deans for a one year appointment to assume their committee responsibility at the start of the fall semester and serving for a twelve-month term. A student member may serve an unlimited number of terms.
- b. Faculty Membership.** The faculty members, one from each of the seven colleges, shall be elected by the faculty of each individual college, assuming responsibility at the start of the fall semester and serving for a twelve-month term. A faculty member may serve an unlimited number of terms.
- c. Vacancies.** Should a faculty member or student vacancy occur, the appropriate dean shall appoint a member to the committee for the remainder of the twelve-month term.

#### **6.7.5 Hearing Procedures**

- a. Quorum.** To conduct a hearing for a grade appeal, a hearing panel (Panel) composed of five (5) members of the University Grade Appeal Committee, of whom at least two (2) must be students and two must be faculty. The Office of Student Rights and Community Standards shall assume responsibility for assembling the Panel. A hearing may proceed with a minimum of four (4) members present.
- b. Hearing Moderator and Advisor.** The hearing shall be moderated by the Associate Provost or his/her designee (Associate Provost). The Director of Student Rights and Community Standards or his/her designee (Director) will be present at all hearings as a non-voting procedural consultant to the Panel and will make a record of the proceedings.
- c. Notice of Hearing.** If a hearing is to be held, the student and the faculty member who assigned the grade being appealed will be notified in writing of the date, time, and place of the hearing at least five (5) school days in advance. In case of an absent instructor, the

unit head, with consent of the absent instructor, shall appoint a faculty member from the department or himself or herself to represent the instructor at the hearing. The Panel may delay judgment if neither the faculty member nor a representative is available for the hearing, if such a presence, in the opinion of the Panel, is necessary to the decision.

- d. **Presentation of Case.** The presentation of the case is the responsibility of the student and the burden of proof is on the student. The instructor shall be provided an opportunity to respond to the student's claim and to present evidence in support of his or her original grade decision. Each presentation is not to exceed 15 minutes in length. Both sides will also have an opportunity to call witnesses with information pertaining to the appeal criteria cited by the student.
- e. **Access to Information.** The Panel will have access to pertinent information in the case and may request additional information from either party or call additional witnesses as needed to render a decision.
- f. **Multiple Appeals.** If two (2) or more members of a class appeal their grades, the Panel may elect to hear the appeals individually or collectively.
- g. **Disqualifications; Challenges.** Any Panel member shall disqualify himself or herself if he or she has a conflict of interest with the case or with the student or believes he/she may have a personal bias. The student or instructor may challenge a Panel member on the grounds of conflict of interest or personal bias. The burden of proof is on the challenger. The decision regarding disqualifying a challenged member shall be made by a majority vote of the remaining members present. If a challenge is upheld, the Associate Provost has the discretion to either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of three-fourths (3/4) of all remaining members of the Panel.
- h. **Conduct of Hearing.** The hearing shall be conducted in an informal manner and without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view toward providing the Panel with a complete understanding of the facts involved. Irrelevant, immaterial, and unduly repetitious evidence may be excluded. The hearing shall be closed to the public; the deliberations of the Panel shall be limited to Panel members only.
- i. **Advisors.** The student and the faculty member shall each have the right to have one person of his or her choice present as an advisor in the hearing. That person must be a student, faculty or staff person of the University or (in the case of the student) his/her parent. The advisor may not participate directly in the hearing and is only present to consult with or support the student or faculty member involved.
- j. **Continuances.** The Panel, by majority vote, may continue the hearing to a later time or times.
- k. **Additional Rules.** Procedural rules not inconsistent with these procedures may be established by the Panel from time to time to ensure that the hearing is conducted in a fair and orderly manner.
- l. **Confidentiality of Appeal Hearing.** With the exception of the Director for the purposes of maintaining the case record, Panel members shall not retain in their possession any personal files, materials received during the appeal procedure, or notes taken during the meetings of the University Grade Appeal Committee. No party, Panel member, or other participant or observer in the appeal procedure shall reveal any facts, documents, or testimony gained through participating in or observing the hearing to any other person, unless required by a court of law to do so or upon the advice of the University's legal counsel.
- m. **Hearings during Summer Session and Breaks.** To ensure the functioning of the

University Grade Appeal Committee during Summer Session and at other times when regular classes are not in session, the Director may convene a hearing with a minimum of three persons chosen from the pool of the committee membership who are available. Should a minimum of three be unavailable from the pool, the Director may select additional faculty members or student to participate in the hearing process. The Associate Provost will moderate the hearing.

**6.7.6 Findings.** Decisions of the Hearing Panel shall be made by majority vote which shall not be revealed to either the student or the instructor. Upon completion of the hearing, the Associate Provost will communicate the Panel's decision via letter to the student, the instructor, the Provost and Vice President for Academic Affairs, and the instructor's department chairperson within two (2) school days of completion of the hearing.

**a. Findings of the Panel.** The Panel may render one of two decisions:

- 1) That a grade which has been appealed be changed with specific designation of the new grade;
- 2) That a grade which has been appealed remains the same.

If the panel decides to change the grade, the instructor shall have five (5) school days in which to file a grade change with the Office of the Registrar or request a review by the Provost (see 6.7.6b below). In the event the instructor takes no action, the Provost shall process a change of grade form.

**b. Provost's Determination.** If either party believes that there have been procedural errors or that they did not receive a fair hearing, they may request a review by the Provost that shall be limited to an examination of the process and procedures followed. The Provost shall communicate the final decision to all parties in writing.

The review may be resolved in one of the following ways:

- 1) The Provost will determine that there were no procedural errors, in which case the original decision is upheld. If that original decision was to change the grade, the Provost shall notify the faculty member that a change of grade form is to be submitted to the Office of the Registrar. The instructor shall have five (5) school days in which to file a grade change with the Office of the Registrar or inform the Provost of intent not to do so. In the event the instructor takes no action or chooses not to change a grade, the Provost shall process a change of grade form.
- 2) The Provost will determine that there were procedural errors, in which case the grade appeal may be remanded back to the original Panel for further consideration.

**c. Transcript notation.** If a grade has been changed by the Provost, the appeal case record shall reflect the following: *Original grade of \_\_\_ was overruled by the Provost upon recommendation of the University Grade Appeal Panel.*

**d. Record.** A record of the case including all materials submitted during the appeal process, written exchanges to and from the student regarding the appeal, the record of the proceedings of the University Grade Appeal Committee hearing (if applicable) and communication to and from the Provost (if applicable) shall be retained on file in the Office of Student Rights and Community Standards for a period of one year after the decision. After that year, unless precluded by a pending legal matter, all materials will be destroyed with the exception of final decisions made by the screening committee, the University Grade Appeal Committee, and the Provost as applicable. These documents may be maintained in digital form.



## **VII. STUDENT ACADEMIC ETHICS POLICY**

### **7.1 Introduction.**

Honesty, trust, and personal responsibility are fundamental attributes of the University community. Academic dishonesty by a student will not be tolerated, for it threatens the foundation of an institution dedicated to the pursuit of knowledge. To maintain its credibility and reputation, and to equitably assign evaluations of scholastic and creative performance, Ball State University is committed to maintaining a climate that upholds and values the highest standards of academic integrity.

### **7.2 Academic Dishonesty.**

Academic dishonesty involves violations of procedures which protect the integrity of the coursework completed by a student. Academic dishonesty includes, but is not limited to the following:

#### **7.2.1 Violations of procedures which protect the integrity of a quiz, examination, or similar evaluation, such as:**

- a. Possessing, referring to, or employing open textbooks or notes or other devices not authorized by the faculty member;
- b. Copying from another person's paper;
- c. Communication with, providing assistance to, or receiving assistance from another person in a manner not authorized by the faculty member;
- d. Possessing, buying, selling, obtaining, giving, or using a copy of any unauthorized materials intended to be used as or in the preparation of a quiz or examination or similar evaluation;
- e. Taking a quiz or examination or similar evaluation in the place of another person;
- f. Utilizing another person to take a quiz, examination, or similar evaluation in place of oneself;
- g. Changing material on a graded examination and then requesting a re-grading of the examination;
- h. The use of any form of technology capable of originating, storing, receiving or sending alphanumeric data and photographic or other images to accomplish or abet any of the violations listed in parts a through g.

#### **7.2.2 Plagiarism or violations of procedures prescribed to protect the integrity of an assignment, such as:**

- a. Submitting an assignment purporting to be the student's original work which has been wholly or partly created by another person;
- b. Presenting as one's own work the ideas, representations or words of another person without customary and proper acknowledgment of sources;
- c. Submitting as newly executed work, without faculty member's prior knowledge and consent, one's own work which has been previously presented for another class at Ball State University or elsewhere;
- d. Knowingly permitting one's work to be submitted by another person as if it were the submitter's original work.

#### **7.2.3 Falsely claiming to have completed work during an internship or class group assignment.**

#### **7.2.4 Cooperating with another person in academic dishonesty, either directly or indirectly as**

an intermediary agent or broker.

**7.2.5** Knowingly destroying or altering another student's work whether in written form, computer files, art work, or other format.

**7.2.6** Aiding, abetting, or attempting to commit an act or action which would constitute academic dishonesty.

### **7.3 Accusation of Discrimination**

If the student believes the accusation of academic dishonesty is in whole or in part due to unlawful discrimination relating to race, religion, color, sex, sexual orientation, physical or mental disability, national origin, ancestry, or age, the student must inform the Office of University Compliance in writing of this belief immediately after an accusation has been made. The charge of unlawful discrimination shall be dealt with under the procedures set forth by the Office of University Compliance prior to or in conjunction with any consideration under the academic dishonesty procedures which follow.

**7.3.1** When a student involved in an academic dishonesty case alleges as a partial or complete defense, discriminatory treatment on the part of the faculty member, then the student must at the first opportunity cite the specific treatment engaged in by the faculty member. When raising such defense, the student must also provide a summary of the constitutionally or statutorily prohibited reasons upon which he or she believes the decision or accusation was based and a detailed summary of the evidence which supports the appellant's allegation. Discriminatory treatment is defined as decisions based upon constitutionally or statutorily prohibited reasons, including unlawful discrimination.

**7.3.2** When a student involved in an academic ethics case alleges discriminatory treatment on the part of the faculty member, the University's Vice President and General Counsel or his or her designee, shall serve in an advisory capacity to the committee or hearing panel at each level of appeal. All appeals alleging discriminatory treatment in cases that begin as academic ethics cases shall be pursued under the procedures set forth in this document rather than under the Ball State University "Equal Opportunity and Affirmative Action Complaint Investigation Procedure and Appeal Process."

**7.3.3** In all cases, the appellant has the burden of proving his or her allegations.

### **7.4 Implementation Procedures**

The Provost will designate the person (Provost's designee) responsible for overall administration of this policy. Throughout this document, *written notice* is defined as Priority United States Mail and/or electronic communication with a read/receipt request attached to the document.

No statute of limitation shall exist for issues of academic dishonesty, including post-graduation situations. In the case of post-graduation issues, the same procedures and timetables as described for current students are applicable. However, before the procedures may begin, the individual in question must be located and contacted. Once located, the Office of the Provost will send a certified letter to the individual, containing all required information. When the Office of the Provost receives confirmation that the letter has been delivered, the timetable of events begins.

**7.4.1 *Informal Resolution.*** If a faculty member accuses a student of academic dishonesty, the faculty member must inform the student, either in person or by written notice, of the alleged violation within five (5) school days after the faculty member becomes aware of the initial circumstances giving rise to the accusation. The faculty member and student will discuss the alleged violation in a private conference within five (5) school days after the faculty member notifies the student of the accusation. The student's failure to respond to this accusation will be considered an admission of guilt.

- a. ***Finding of Innocence.*** If, as the result of the conference, the faculty member thinks that the student is not responsible, the matter will be closed.
- b. ***Finding of Violation.*** If, as a result of the initial conference, the student admits his or her academic dishonesty, the student will be required to indicate this admission in writing to the faculty member within five (5) school days following the conference.
- c. ***Imposition of Punishment.*** If, after receiving the written admission of a violation, an appropriate resolution and punishment is found which satisfies the faculty member and the student, written documentation of the meeting will be sent to the Provost's designee. This written documentation must be signed by both the faculty member and the student.
- d. ***Disagreement as to Violation.*** If, as a result of the initial conference, the faculty member thinks a violation has occurred and the student disagrees, the faculty member must notify the student in writing within five (5) school days following the initial conference that the faculty member is proceeding with the formal resolution process.
- e. ***Disagreement as to Punishment.*** If the faculty member imposes punishment after a student has admitted guilt (written admission or failure to respond), the student may appeal within five (5) school days following the initial conference the appropriateness of the punishment imposed (but not his or her guilt) to the Student Academic Ethics Committee.

**7.4.2 *Formal Resolution.*** A faculty member's written notification to the student that he or she is proceeding with the formal resolution process shall include a brief description (no more than five (5) pages) of the circumstances giving rise to the accusation and inform the student of his/her right to appeal. A copy of the written notice shall be given to the faculty member's chairperson. The student must respond in writing to the formal accusation within five (5) school days after receiving the faculty member's written notice.

- a. The student's written response must indicate why he/she denies the accusation and wishes to appeal.
- b. If the student fails to respond in writing within the five (5) school day period, the student shall be deemed to have admitted to the accusation.
- c. If the student denies the accusation, in writing, the faculty member shall refer the matter, in writing, to the University Academic Ethics Committee within five (5) school days from the date of the student's response. At that same time, the faculty member shall provide copies of the academic dishonesty referral to the student, department chairperson, and Provost's designee. The faculty member bears the burden of proof for establishing academic dishonesty.
- d. If the matter is not resolved informally, and if the faculty member does not refer the matter to the University Academic Ethics Committee, the student shall be deemed to be innocent of the accusation of academic dishonesty and no punishment may be imposed.

**7.4.3 *Timing of Grade.*** During the formal resolution process, the student's enrollment and

participation in class shall not be affected. If the student's grade in the course has not been resolved by this process and the semester ends, the student shall receive an "Incomplete" in the course until such time as a grade can be determined pursuant to this policy. If the student has already been assigned a grade in the course at the time the student is accused of academic dishonesty, the assigned grade shall not be changed unless and until the student is determined to be guilty of academic dishonesty pursuant to this policy.

**7.4.4 *Course Withdrawal.*** Withdrawal from a course when faced with an accusation of academic dishonesty in that course does not preclude imposition of a penalty for the violation, including failure in the course. If penalty shall be determined to be course failure, the instructor may submit a Change of Grade form to the Registrar to replace the "W" with an "F".

**7.4.5 *Multiple Offense Review.*** Upon receipt of a faculty member's written notification of an informal resolution of a student academic integrity issue or of a need for a formal resolution process and if it is found that one or more prior offenses has occurred, the Provost's designee shall review all records and make a determination as to whether further action is warranted.

- a. *Informal Process Resolution.* After review of past incidents, the Provost's designee may close the matter with no further action, or may choose to impose additional penalty for the most recent violation.
- b. *Referral to Academic Ethics Committee.* The Provost's designee may also choose, upon review, to forward the matter to the Academic Ethics Committee for consideration of additional penalties.
- c. *Forwarding Cases Resolved at Informal Level.* In cases where the most recent offense has been resolved by agreement of the faculty member and student, the hearing will include only the student and the hearing panel. The faculty members involved in student's violations need not appear unless circumstances warrant faculty involvement. The hearing panel may recommend no additional penalty or may recommend penalty up to and including suspension or expulsion from the University or revocation of a previously awarded degree.
- d. *Forwarding Cases Resolved at Formal Level.* If the determination of prior violations occurs during the Formal Resolution process (7.4.2), the process and hearing will proceed as outlined for a single offense. The hearing panel will include questioning about any other offenses and will consider the issue of multiple offenses as part of a recommendation to the Provost and Vice President for Academic Affairs for penalty.

## **7.5 Student Academic Ethics Committee – Composition**

**7.5.1 *Membership.*** The Student Academic Ethics Committee shall be composed of seven (7) faculty members, four (4) students, the Provost's designee, and the Director of Student Rights and Community Standards or his/her designee.

- a. Each college dean shall appoint one (1) regular faculty member from his or her college with the academic rank of assistant professor or higher to serve on the committee;
- b. The Student Government Association shall appoint four (4) students to serve on the committee. The students must be of not less than sophomore standing, shall not be on academic probation, or have a record of having committed academic dishonesty. Each student must consent in writing to the University verifying to the Student Government

Association that he or she meets the requirements of the preceding sentence;

- c. The Provost's designee and the Director of Student Rights and Community Standards may each designate a representative from time to time to serve in their place on the committee.

**7.5.2 Term.** Faculty and student members of the Student Academic Ethics Committee shall be appointed during spring semester of each year to serve a one (1) year term beginning the following fall semester. A faculty or student member may serve an unlimited number of terms.

## **7.6 Student Academic Ethics Committee: Procedures**

**7.6.1. Selection of Hearing Committee; Chairperson.** Upon receipt of an academic dishonesty referral or an appeal, the Provost's designee shall select a Hearing Committee from among the members of the University Academic Ethics Committee. The specific members selected shall be determined at the discretion of the Associate Provost but the Hearing Committee shall be composed of five (5) voting members: three (3) faculty, two (2) students; and two (2) non-voting members: the Provost Designee, and the Director of Student Rights and Community Standards or his/her designee. The Provost's designee shall serve as chairperson of the Hearing committee.

**7.6.2 Advisors.** The student and faculty member may each be accompanied and assisted at the hearing by one advisor. However, an advisor may not address the Hearing Committee or witnesses directly. The student and faculty member shall each indicate to the Provost's designee who will serve as his or her advisor at least twenty-four (24) hours before the hearing.

**7.6.3 Notice of Hearing.** The Provost's designee shall establish the time, date, and place that the academic dishonesty referral or appeal will be heard by the Hearing Committee and shall give at least ten (10) school days prior written notice thereof to the student and to the faculty member. The notice shall include the names of the persons who will serve on the Hearing Committee and shall briefly state the nature of the accusation and the circumstances giving rise to the accusation. The date of the hearing shall be not more than twenty (20) school days after the faculty member's written notice or the student's appeal was received by the office of the Provost's designee. In the case of an absent faculty member, the department chairperson, with consent of the absent faculty member, shall appoint a faculty member from the department or himself or herself to represent the faculty member at the hearing.

**7.6.4. Quorum.** All of the voting members of the Hearing Committee must be present to constitute a quorum, unless a vacancy occurs, as provided in 7.6.5, but a majority of the voting members present, whether or not a quorum exists, may adjourn any meeting to another time or date.

**7.6.5 Disqualification; Challenges.** Any Hearing Committee member shall disqualify himself or herself if he or she has a conflict of interest with the case, the student, a personal bias relevant to the case. The student may challenge a Hearing Committee member on the grounds of conflict of interest or personal bias. The decision whether to disqualify a challenged member shall be made by a majority vote of the remaining members present.

If a challenge is upheld, the Provost's designee may, at his or her discretion, either appoint another person to fill the vacancy or direct that the vacancy not be filled. In the latter case, a quorum shall thereafter consist of all remaining voting members of the Hearing Committee.

**7.6.6. *Witnesses.*** The student and the faculty member may invite persons who have Information relevant to the accusation to present testimony at the hearing; however, the chairperson of the Hearing Committee may limit the number of witnesses to avoid repetition and cumulative testimony. The witnesses must be affiliated with the University and knowledgeable about the academic dishonesty accusation. Each party shall be responsible for insuring the presence of his or her witnesses at the hearing and shall be prohibited from submitting a written statement in lieu of personal testimony of a witness unless the chairperson of the Hearing Committee determines that the witness is unavailable to testify. The student and the faculty member must provide the names of all witnesses who may testify at least twenty-four (24) hours before the scheduled time of the hearing to the Office of the Provost's designee. All witnesses who testify, as well as the student and the faculty member, may be questioned by any member of the Hearing Committee concerning any matter relevant to the issues before the Hearing Committee. Witnesses invited by either party shall be present only while they are testifying.

**7.6.7 *Materials Used in the Hearing.*** The student must provide a written statement of no more than five (5) pages outlining the basis of the appeal and provide any supporting documentation. The faculty member will provide the original written notification and any additional supporting materials. All documentation must be received in the Office of the Provost no less than five (5) school days prior to the hearing. All documents shall be distributed to both parties and the Hearing Committee no less than twenty-four (24) hours in advance of the scheduled hearing.

**7.6.8 *Conduct of the Hearing.*** The hearing shall be conducted without reference to rules applicable to a court of law concerning the examination of witnesses and admissibility of evidence, but with a view to providing the Hearing Committee with a complete understanding of the facts involved. Each party shall be granted up to thirty (30) minutes to present relevant information to the Hearing Committee. Time used by witnesses shall count toward those thirty minutes (excluding time spent questioning the witness by the Hearing Committee). Decisions of the hearing committee shall be made by a majority vote. The Hearing Committee may delay judgment if the faculty member (or his/her representative) or the student is not available for a legitimate reason.

**7.6.9 *Confidentiality of Appeal Hearing.*** The Hearing Committee members shall return any personal files, materials received during the appeals procedure, or notes taken during the meetings of the Hearing Committee to the Chairperson of the Hearing Committee, once the process is complete. No member of the Hearing Committee, or other participant or observer in the appeal procedure shall reveal any facts, documents, or testimony gained through participating in or observation of the hearing to any other person unless required by a court of law to do so or upon the advice of the University's legal counsel.

## **7.7 Hearing Committee: Determination/Recommendations**

**7.7.1 *Determination and Recommendation of the Hearing Committee.*** The Hearing

Committee's determinations shall be based solely on the evidence presented or summarized at the hearing, as well as the testimony provided by the student, faculty member, and witnesses; however, the Hearing Committee may take official notice of matters which would be within the general experience or knowledge of faculty or students of the University. The Hearing Committee shall complete the following tasks:

- a. determine the guilt or innocence of the student (if not previously determined);
- b. determine the recommendation for punishment if the student is determined to be guilty or the student admitted guilt in writing, or the only issue before the Hearing Committee is the punishment to be imposed. The Hearing Committee may consider any prior instances of academic dishonesty by the student in determining its recommendation for punishment;
- c. meet in one or more private sessions after the conclusion of the hearing for the purpose of preparing the written summary of the evidence presented, findings, and recommendation for punishment for delivery to the Provost and Vice President for Academic Affairs.

**7.7.2 *Determination of Innocence.*** If the Hearing Committee determines that the student is innocent of the accusation, the accusation shall be dismissed and the Hearing Committee shall request the faculty member involved to assign a grade to the student based upon the student's academic performance. If the student thereafter disagrees with the grade assigned, the student may appeal the grade through the University's grade appeal procedure. The Hearing Committee shall give its written summary of evidence presented and its written findings of innocence to the Provost and Vice President for Academic Affairs. A copy of the summary and findings of innocence shall at the same time be given to the student, faculty member, the faculty member's department chairperson, and the faculty member's dean.

**7.7.3 *Determination of Guilt: Findings and Recommendation to Provost and Vice President for Academic Affairs.*** If the Hearing Committee determines that the student is guilty of the accusation, if the student has admitted guilt in writing, or if the only issue before the Hearing Committee is the punishment to be imposed, the Hearing Committee shall give its written summary of the evidence presented, its written findings, and its recommendation for punishment to the Provost and Vice President for Academic Affairs. A copy of the summary, findings, and recommendation for punishment shall at the same time be given to the student, the faculty member, the faculty member's department chairperson, and the faculty member's dean.

**7.7.4 *Appeal to the Provost and Vice President for Academic Affairs.*** The faculty member or the student may appeal the Hearing Committee's decision to the Provost and Vice President for Academic Affairs. To be considered by the Provost and Vice President for Academic Affairs, such appeals must be received by the Office of the Provost and Vice President for Academic Affairs within five (5) school days after the date the Hearing Committee's summary, findings, and recommendations are given to the student, the faculty member, the faculty member's department chairperson, and the faculty member's dean. The decision of the Provost and Vice President for Academic Affairs is final.

**7.7.5 *Action by Provost and Vice President for Academic Affairs.*** After receipt of the Hearing Committee's summary, findings, and recommendation and any written comments promptly submitted by the faculty member or student, the Provost and Vice President for Academic Affairs may: (1) approve the determination and recommendation of the

committee; (2) overrule or modify the committee's recommendation for punishment; or (3) refer the matter to the Hearing Committee for such action as the Provost and Vice President for Academic Affairs may direct. If the Provost and Vice President for Academic Affairs refers the matter to the Hearing Committee, the results of the Hearing Committee's further actions shall be communicated to the Provost and Vice President for Academic Affairs for final decision.

## **7.8 Punishment**

**7.8.1 *By Faculty Member.*** A faculty member may impose punishment for academic dishonesty up to and including failure in the course.

**7.8.2 *By Provost and Vice President for Academic Affairs.*** After receipt of the Hearing Committee's summary, findings and recommendation, the Provost and Vice President for Academic Affairs may impose punishment up to and including suspension or expulsion from the University or revocation of a previously awarded degree.

## **7.9 Records of Academic Dishonesty**

**7.9.1 *Records in Case with No Adverse Finding.*** If a student is determined or deemed to be innocent of an accusation of academic dishonesty, and any appeal of that decision has been concluded with no change in judgment, all materials concerning the accusation that are in the possession of the University or any University faculty or staff member shall be destroyed, except that any student work product involved in the dispute shall be evaluated, retained, returned to the student or otherwise handled as required by the original assignment.

**7.9.2 *Records in Case with Adverse Finding.*** If an academic dishonesty proceeding concludes, after any available appeals, in a finding that there was academic dishonesty of any type in any degree, or if a case is resolved by informal resolution under 7.4.1., with a stipulation by the student that there was academic dishonesty of any type in any degree, the records of the proceedings shall be maintained in accordance with Subsection 7.9.3.

**7.9.3 *Maintenance of Records.*** Records of any proceeding described in Section 7.9.2 shall be maintained in a separate file, identified by the name of the student. The records shall include all materials used in the hearing, as well as findings of violation and imposition of punishment as a result of informal resolution under Section 7.4.1. All materials in a student's academic dishonesty file will be destroyed five (5) years after the case is resolved or when the student graduates from Ball State University, whichever date comes later. However, if at the conclusion of this holding period, the materials are relevant to pending or threatened litigation, the Provost and Vice President for Academic Affairs may direct that destruction of the materials be delayed until such litigation is concluded. Access to or release of the materials will occur only with the prior written consent of the student or in accordance with the Registrar's policies for the release of student records, in accordance with federal and state law and university policy.

**7.9.4 *Transcripts.*** Other than the grade finally assigned in a course, a student's academic dishonesty shall not be recorded on the student's transcript unless the student is expelled from the University or a previously awarded degree is revoked. In these cases the



transcript has a notation but which does not specify expulsion or revocation of degree.

## **7.10 Miscellaneous**

**7.10.1 *Action by Designee.*** Whenever an action may be or is required to be taken under this policy by the Provost and Vice President for Academic Affairs, the Associate Provost, or the Director of Student Rights and Community Standards, the action may be taken by that person's designee.

## **APPENDIX A - Alcohol Policy**

When students choose to consume alcoholic beverages, Ball State University encourages responsible practices and behavior in accordance with campus policies, the laws of the State of Indiana, and the City of Muncie. On and off campus violations of University policy and local and state laws related to alcohol will result in disciplinary action.

### **A. General Guidelines**

1. *University Sponsored Events* - Illegal purchase, service, consumption, or possession of alcoholic beverages at any University-sponsored event on or off campus is prohibited. Upholding applicable local, state, and federal laws in connection with this policy is the joint responsibility of the persons in attendance at the activity, the sponsoring organization, and the management of the establishment in which the activity is held.
2. Illegal purchase, consumption, or possession of alcoholic beverages by any student under 21 years of age is prohibited wherever it may occur.
3. Providing alcoholic beverages at any time to an individual who is under 21 years of age is strictly prohibited.
4. Adverse behavior as a result of alcohol consumption, including disruption, disorderly conduct, and public intoxication shall be a violation of the *Code of Student Rights and Responsibilities (Code)*.
5. The sale of alcoholic beverages by any person, group, or organization without a license is strictly prohibited.
6. Students, groups, or organizations found responsible for providing alcohol to minors and selling or distributing alcohol in violation of state law shall be in violation of the *Code*.
7. Students hosting parties where (a) minors are allowed to consume alcohol, (b) alcohol is provided to minors, (c) provided in excess to others, or (d) otherwise distributed in violation of the law are subject to sanctions outlined in the *Code of Student Rights and Responsibilities* up to and including suspension or expulsion from the University. Groups and organizations are subject to sanctions up to and including suspension of recognition or withdrawal of recognition.

**B. On Campus:** With respect to the service, possession, or consumption of alcoholic beverages on the Ball State University campus, state statutes and city ordinances will be enforced in addition to the following regulations:

1. Residents who are of legal age to possess or consume alcoholic beverages and who reside in University-operated employee apartments or University Apartment units may possess and consume such alcoholic beverages in the privacy of their residences.
2. Consumption and possession of alcohol may be permitted on some residence hall floors where all residents are of legal age to possess or consume alcoholic beverages. Such use of alcoholic beverages will not be permitted in the public lounges, study lounges, recreation areas, dining rooms, or any area other than the student rooms.

**C. Parental Notice:** The University will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;

- medical attention to any person, including the student, is required as a result of the student's alcohol-related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

**D. Good Neighbor Exception** - Students are always encouraged to call for emergency assistance as needed, even at the risk of disciplinary action for one's own conduct. When another person is in need of critical care or when a situation otherwise warrants emergency response, call 911 immediately. The Good Neighbor Exception provides students the opportunity for University disciplinary action to be waived if he/she risked revealing one's own violation of the *Code of Student Rights and Responsibilities* in order to seek medical or other emergency assistance to another person in distress. The decision to provide the exception shall be the judgment of the designated hearing officer. ***NOTE: The exception does not apply to any criminal charges that might be incurred as a result of an offense.***

## **APPENDIX B - Drug Policy**

The use, abuse, possession, sale, distribution, manufacture, or transfer of narcotics, illegal drugs as defined by state or federal law, or any controlled substance is prohibited at all times, except as expressly permitted by law. Controlled substances include, but are not limited to, marijuana, hash oil, hashish, inhalants, and abuse of over-the-counter drugs and prescription drugs, and/or the use of over-the-counter drugs or prescription drugs, or any other immediate precursor to be used to manufacture any other illegal drug, including without limitation, methamphetamine, except as expressly permitted by law.

Possession or manufacture of drug paraphernalia which is to be used for any one of the following purposes (a) to introduce into a person's body a drug, marijuana or any controlled substance, (b) to test the strength, effectiveness or purity of a drug, marijuana or any controlled substance, or (c) enhances, or is perceived to enhance, the physiological effect of a drug, marijuana or any controlled substance, is also a violation of this policy.

Violation of this policy, on or off campus, will result in disciplinary action by the University. Those found responsible may face sanctions up to and including consideration of suspension or expulsion, depending on prior disciplinary record and severity of the violation.

Students who reside in University housing facilities, will be subject to immediate contract termination if found responsible for any violation of this policy.

Students need to be aware that any student convicted of a state or federal drug violation that occurred while enrolled and while receiving federal financial aid may be declared ineligible for future federal student aid for up to a year. Individuals convicted of both possession and selling may face a longer period of ineligibility.

The University will notify parents/guardians of students under 21 years of age when a student is found responsible for (1) a violation of the drug policy, (2) a *second* violation of the alcohol policy, and (3) on the *first* violation of the alcohol policy when one or more of the following occurs:

- the student demonstrates a reckless disregard for his or her personal safety or the safety of others;
- medical attention to any person, including the student, is required as a result of the student's alcohol related behavior;
- there is property damage;
- the student operates a motor vehicle under the influence of alcohol;
- the incident involves another serious violation;
- the student's alcohol-related behavior negatively impacts the learning environment.

## **APPENDIX C - Harassment Policy – University Anti-Harassment Policy**

*Note: The Anti-Harassment policy is maintained by the Office of University Compliance and was last revised in July, 2013. The most current and accurate version of this policy may be found at <http://cms.bsu.edu/about/administrativeoffices/legal/anti-harassment-policy>. Students accused of violating the University's Anti-Harassment policy may, depending on the seriousness of the allegation, be referred to Student Rights and Community Standards for adjudication and consideration of sanctions up to and including suspension or expulsion.*

## **APPENDIX D - Hazing Policy**

- A. Hazing by students, student organizations, groups, or teams of Ball State University is prohibited. Hazing is defined as follows: Any mental or physical requirement, request, or obligation placed upon any person (including but not limited to a pledge, associate member, affiliate, prospective member, guest, initiate, or team member) which could be harmful to the health and/or welfare of the person, or which is personally degrading to the individual involved, or which has an adverse effect on the academic progress of the person, or which violates any federal, state, or local laws or University policy. Individual acceptance of or acquiescence to any activity covered by the foregoing definition in no way validates or excuses the activity. Student groups may be required to certify in writing that they are in compliance with this policy.
- B. Individual members of organizations, groups, or teams who violate this policy are subject to disciplinary action as provided in Section V, of the *Code of Student Rights and Responsibilities*. Any organization which violates this policy is subject to sanctions which may be imposed by the coordinating body of which the organization is a constituent member, the Vice President for Student Affairs & Dean of Students or his/her designee, and/or the Student Activities Committee.

## **APPENDIX E - Information Technology Users' Privileges and Responsibilities**

*The Information Technology Users' Privileges and Responsibilities policy is maintained by the Office of Information Security Services. Students should check [www.bsu.edu/security/itpolicy](http://www.bsu.edu/security/itpolicy) (see first link under **Policies**) for a copy of the most current policy.*

## **APPENDIX F - Involuntary Withdrawal Policy**

### **A. Introduction**

A student will be subject to administrative involuntary withdrawal from the University when, in the judgment of the Associate Vice President for Student Affairs & Director of Housing & Residence Life (hereafter referred to as the Associate Vice President), the Director of Counseling and Health Services, and the Medical Director of the University Health Center, there is a substantial possibility that the student, as a result of a physical or psychological condition;

1. Will harm others, or
2. Will cause significant property damage, or causes significant interference with the educational environment of others, or
3. Will be substantially unable, even with the help of auxiliary aids, to meet his or her responsibilities as a student, or
4. Demonstrates the inability to care for his or her daily physical or mental health needs without assistance and has failed to secure such assistance.

The Associate Vice President will initiate a review through either this process or the University's student disciplinary process. If the student has engaged in an activity which subjects him or her to University disciplinary action, the matter will be handled through the University's student disciplinary process unless the Associate Vice President determines that the student, as a result of psychological conditions:

1. Lacks the capacity to respond to pending disciplinary charges against him or her, or
2. Did not know the nature or wrongfulness of the conduct at the time of the offense.

### **B. Interim Withdrawal**

An Interim Withdrawal may be implemented immediately by the Associate Vice President if he/she determines, based upon a qualified medical or psychological opinion, that the student may be suffering from a mental or psychological disorder and the student's behavior poses an imminent danger of causing physical harm to others, of causing significant property damage, or of substantially impeding the lawful activities of others. A student withdrawn on an interim basis shall be given an opportunity to appear personally before the Associate Vice President within two (2) school days from the effective date of the interim withdrawal in order to review the following issues only:

1. The reliability of the information concerning the student's behavior and
2. Whether or not the student's behavior poses a danger of causing imminent physical harm to others, causing significant property damage, or substantially impeding the lawful activities of others. Unless the Associate Vice President determines otherwise, the student will remain withdrawn on an interim basis pending completion of the procedures described below.

### **C. Procedures**

1. ***Meeting with the Associate Vice President.*** A student may be requested in writing and/or orally (depending on the urgency of the situation) to attend an informal meeting with the Associate Vice President for the purpose of determining whether the student, as a result of a physical or psychological condition, falls within one of the four categories described

in Section A., “Introduction,” above, and, if so, the necessity for withdrawal. Such a request will include a statement of the reasons for the University’s concern. The Director of Counseling and Health Services and the Medical Director of the University Health Center will attend the meeting. Other appropriate personnel may be present and/or consulted. Parents, spouse, or any person who would be of support to the student may, with the consent of the Associate Vice President, and of the student, participate in the informal meeting. At the meeting the reasons for the University’s concern regarding the student will be stated and the student will be given an opportunity to respond to these concerns. If, after the meeting, the student is found not to fall within one of the four categories described in the “Introduction” above, he or she will be so informed in writing by the Associate Vice President and allowed to continue as a student.

2. ***Associate Vice President’s Withdrawal Decision.*** If, after the informal meeting, the Associate Vice President, the Medical Director of the University Health Center, and the Director of Counseling and Health Services, decide that the student should withdraw from the University and be permitted to re-enter the University only with their approval, the student shall be informed in writing of such decision and the basis for the decision within five (5) school days of the informal meeting. Notification may be made to the person listed as the student’s Emergency Contact.
3. ***Voluntary Withdrawal.*** If the student agrees to withdraw voluntarily from the University, regular withdrawal procedures will be followed. The student may be permitted to withdraw voluntarily without grades if, in the judgment of the Associate Vice President (after consultation with the approval by the student’s instructors), the circumstances warrant such action.
4. ***Notice of Refusal to Withdraw Voluntarily.*** If the student fails to accept the decision of the withdrawal and refuses to withdraw from the University voluntarily, the student shall notify the Associate Vice President of such refusal within five (5) school days of receipt of the written decision. If the student fails to notify the Associate Vice President of such refusal within five (5) school days of receipt of the written decision, the student will be deemed to have waived his or her right to appeal the withdrawal decision.
5. ***Appeal.*** The student may appeal the withdrawal decision to the Vice President for Student Affairs and Dean of Students within five (5) school days of receipt of the written decision. The Vice President shall hear the matter after notice to the student, the Associate Vice President, the Director of Counseling and Health Services, and the Medical Director of the University Health Center. The student may be accompanied and assisted at the hearing by an advisor of the student’s choice, provided the advisor is an employee or student of the University or a member of the student’s immediate family and the advisor agrees to act as the student’s advisor. The student, the student’s advisor, the Associate Vice President, the Director of Counseling and Health Services, and the Medical Director of the University Health Center may attend the hearing and present evidence. In addition, the Vice President for Student Affairs and Dean of Students may require the student, at his or her expense, to obtain a psychiatric/medical evaluation from sources external to the University to be entered as evidence. The hearing shall be conversational and non-adversarial. Formal rules of evidence will not apply. The issues or concerns to be resolved by the Vice President shall be as follows:
  - a) Whether the student, as a result of a physical or psychological condition, falls within one of the four categories described in Section A., Introduction, above; and

- b) If so, whether the student should be involuntarily withdrawn from the University.
6. ***Findings; Decisions.*** The Vice President for Student Affairs and Dean of Students shall prepare a written decision containing findings and conclusions. Copies of the decision shall be furnished to the student, the Associate Vice President, the student's advisor, the Director of Counseling and Health Services, and the Medical Director of the University Health Center. The decision of the Vice President for Student Affairs and Dean of Students shall be final, conclusive, and not subject to appeal.
  7. ***Action by Designee.*** Whenever an action may be or is required to be taken under this policy by the Vice President for Student Affairs & Dean of Students, the Associate Vice President for Student Affairs & Director of Housing & Residence Life, the Director of Counseling and Health Services, or the Medical Director of the University Health Center, the action may be taken by the person's designee.
  8. ***Deviations from Established Procedures.*** Reasonable deviations from these procedures will not invalidate a decision or proceeding unless significant prejudice to a student may result.



## ***APPENDIX G – Pet Policy***

1. **General** - The pet is any domesticated or tamed animal that would normally be expected to belong to someone whether or not there is any acknowledged ownership.
2. **University Buildings** - (Except Residence Halls and University Apartments) Written authorization is to be obtained from the appropriate Department Chairperson, Dean or Administrative Head involved before a pet may be brought into University buildings. Such authorization is to state the purpose and duration of the activity involving the pet. The authorization is to be in the possession of the owner or person in control of the pet during the time the pet is in a University building.
3. **Residence Halls** - Pets are not permitted in the residence halls except for marine life in fresh water aquariums. Contact Housing and Residence Life for specific information.
4. **University Grounds** - Pets are not permitted on University grounds unless they are appropriately leashed or caged and under the control of and accompanied by their owners or others designated by their owners as having responsibility for the control and care of the pet.
5. **University Apartments** - Pets are not permitted in University Apartments with the exception of marine life in fresh water aquariums. Contact University Apartments for specific information.
6. **Enforcement** - Violations of the University Pet Policy will be dealt with in accordance with University rules governing the conduct of faculty, staff, and students. In addition, violations in the Residence Halls and University Apartments, will have action taken in accordance with "Conditions of Occupancy" for University Apartments, and "Policies of University Residence Halls" for the Residence Halls.
7. **Limitations** - Provisions of this policy do not apply to service dogs or to police or K9 dogs while such animals are performing their duties under supervision.
8. **Additional Laws** - This Pet Policy is in addition to applicable ordinances of the City of Muncie and statutes of the state of Indiana.

## **APPENDIX H - Records Policy**

- A.** The University policies related to educational information are based upon the Family Educational Rights and Privacy Act of 1974. This act provides the student the opportunity to review his or her records and also limits disclosure of his or her student information to others. If the student wants to review his or her educational records and he or she is or has been enrolled as a student at Ball State, the student may simply contact the area within the University that stores the records in which he or she is interested.
- B.** Educational records are defined to be all the records maintained by the University about the student with the following exceptions:
1. Personal notes of faculty and staff that are not shared with anyone else;
  2. Financial records of parents filed in connection with financial aid applications for the student;
  3. Confidential letters and statements of recommendation that were placed in the student's file before January 1, 1975;
  4. Confidential recommendations related to admission to the University, an application for employment, or the receipt of an honor, if the student has signed a waiver of his or her right to future access to this information (under no conditions will the student be required to waive his or her rights to future access to information before receiving University services or benefits);
  5. Investigatory information within the Department of Public Safety; and
  6. Information maintained by the Health Center or the Counseling Center.
- C.** In the event that the student believes his or her records to be inaccurate, misleading, or otherwise in violation of his or her rights of privacy, he or she may challenge the information that is contained in his or her educational records by contacting the University official responsible for the particular educational record in question. The student may then provide for informal meetings and discussions to resolve his or her concerns. The University official may decide that the student has sufficiently demonstrated that the challenged material should be deleted or modified, and the change will subsequently be made. Otherwise, the student may insert a statement into his or her record to explain any such material from his or her point of view, or a formal hearing may be requested in writing through the Vice President for Student Affairs & Dean of Students or his/her designee. This right to challenge information contained in the student's educational records does not extend to grades unless a grade assigned by a professor was inaccurately recorded. Individuals, agencies, or organizations shall not have access to the student's personally identifiable educational record without his or her written consent except for the following:
1. University personnel who require access on an internal need-to-know basis;
  2. Officials of other schools in which the student may seek or intend to enroll provided that the student has the opportunity to receive a copy of such records if he or she desires;
  3. Authorized representatives of the government when release of such data is necessary in connection with the audit and evaluation of federal- or state-supported educational programs, or in connection with the enforcement of legal requirements that relate to such programs;
  4. In connection with the student's application for, or receipt of, financial aid;
  5. State and local officials or authorities to which such information is specifically required to be reported or disclosed according to Indiana statute adopted before November 19, 1974;

6. Organizations conducting studies for, or on behalf of, the University for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction;
7. His or her parents, if he or she is dependent student as defined by the Internal Revenue Service Code, which means that he or she receives more than one-half of his or her financial support from his or her natural or adoptive parents;
8. In connection with emergency, if the knowledge of the student's information is necessary to protect his or her health or safety or that of other persons; and
9. In compliance with a judicial order or pursuant to any lawfully issued subpoena provided that the student is notified of any such order or subpoena before his or her information is released. A log is maintained for student's inspection of those individuals, agencies, or organizations listed above (other than University personnel) who have had access to or been provided personally identifiable information from the student's file.

**D.** Unless the student has requested that the Office of Registration and Academic Progress withhold all or a portion of his or her public information from normal disclosure and printing in the student directory, the following information may be released in response to inquiries from the public; name; address (local and home); telephone listing (local and home); electronic mail address; photograph, video and electronic image taken or maintained by the university; date of birth; major field of study; dates of attendance; class level; enrollment status (undergraduate or graduate, full time or part time); participation in officially recognized activities and sports; weight and height if a member of an athletic team; degrees, honors, and awards received; and the most recent previous educational institution attended. Portions of this information will be printed in the annual *Ball State University Directory*, and any of this information will be routinely released to any inquirer unless the student requests that all or part of this list be withheld. A form for this purpose may be obtained in the Registration and Academic Progress Office in Lucina Hall.

**E.** The student should consider very carefully the consequences of any decision to remove any of these items from the list of directory information. The University receives many inquiries for directory information from a variety of sources, including friends, parents, relatives, prospective employers, graduate schools, honor societies, licensing agencies, government agencies, and news media. Should the student decide to request that the University not release any or all of this information, any future requests from others for such information will be refused. For example, the University could not release the student's address or telephone number to a friend or family member wishing to notify him or her of a serious illness or crisis in his or her family. A prospective employer would also be denied access to such items.

**F.** If the student has any questions or desires additional information regarding provisions of the Family Educational Rights and Privacy Act or of University Records Policy, he or she may contact the Office of Registrar.

## **APPENDIX I – Self-Harm Protocol**

The Ball State University Self Harm Protocol consists of three main sections: (1) Self Harm Prevention; (2) Incident Response; and (3) Emergency Notification. The primary intent of the protocol is to assist in identifying at-risk students and provide for them the care/treatment needed to effectively and safely deal with their problems. The protocol includes procedures for responding to incidents of suicide, suicidal attempts and/or threats, and other self-harm ideation, as well as guidelines for when and how to contact family and/or friends during an emergency.

The Incident Response portion of the protocol is intended to provide faculty, staff and others guidelines to follow when faced with incidents of suicide, self-harm attempts or suicide ideation involving students living on and off campus. In each case, specific directions guide the individual's response for particular emergency situations, including appropriate follow-up with the student. **Minimally, students who are judged to be at significant risk of self harm will be required to attend two risk assessment sessions in the Counseling Center.**

A brief overview of the protocol includes the following:

- Faculty/staff awareness of self-harm incident
- Implementation of the Incident Response Protocol
- Referral for appropriate services (hospitalization, Counseling Center, 911 emergency, etc.)
- Referral to the Associate Vice President for Student Affairs & Director of Housing and Residence Life or his/her designee (Official letter to student detailing notice of requirements, parental notification, etc.)
- Required minimum of two sessions of assessment in the Counseling Center

Further, in the event of a serious suicide attempt or ideation, and in cases of completed suicide, it is likely to be appropriate to notify parents, spouse, or other family members. The decision to notify shall be made in accordance with the Emergency Response procedures provided within the Self Harm Protocol. These procedures also apply to notification in the event of any death of student, accidental injury or life-threatening illness. The protocol is designed to assist faculty and staff in making appropriate decisions for notification; however all incidents involving student hospitalization, serious suicide attempts, and the death should only be handled by the Vice President for Student Affairs & Dean of Students or his/her designee. Faculty/staff should not contact parents directly.

## **APPENDIX J – Statement on Sexual Harassment Policy**

*Note: The Sexual Harassment policy is maintained by the Office of University Compliance. Last revised in August, 2002, the most current and accurate version of this policy may be found at <http://cms.bsu.edu/about/administrativeoffices/legal/anti-harassment-policy>.*

*Students accused of sexual harassment or sexual misconduct will be referred to another office for investigation, adjudication and consideration of sanctions up to and including suspension or expulsion via policy Appendix K*

## **APPENDIX K - Sexual Harassment and Misconduct Policy**

*Revised July 18, 2014*

This policy applies to all forms of sexual harassment, sexual violence, stalking, and intimate partner violence.

### **Introduction**

Ball State University prohibits sexual and gender-based harassment, sexual violence, intimate partner violence, and stalking. These behaviors, referred to collectively as sexual harassment and misconduct in this policy, are prohibited by Ball State University, are inconsistent with the university's values, and are incompatible with the safe, healthy environment that the Ball State community requires to function effectively. Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex or gender in educational programs. Sexual harassment and misconduct, as defined in this policy, are all forms of sex discrimination. Many forms of sexual misconduct violate both this policy and state law. The university will not condone or tolerate any verbal or physical conduct that would constitute sexual harassment, sexual violence, stalking, or intimate partner violence from any member of the university community, including students, staff and faculty, or from guests or visitors to the campus.

This policy prohibits a broad continuum of behaviors including but not limited to: sexual harassment, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation, bullying or cyber-bullying, stalking, retaliation, intimidation and harm, threat, or endangerment. Each of these terms is defined later in this policy.

This policy applies to the resolution of complaints against students who have been accused of sexual harassment or misconduct, regardless of whom is making the complaint. The university will respond according to the severity or pervasiveness of the offense and the threat it poses to the community. Complainants<sup>1</sup> can expect the university to respond promptly and effectively, to make interim protective measures available, and to take the complainant's wishes into consideration in its response. Individuals who are found responsible under this policy may face disciplinary sanctions up to and including expulsion. The university will treat all parties fairly and respectfully; take measures necessary to provide safety for individuals and the university community; utilize processes that are thorough, fair, and impartial; and balance the needs and interests of individuals with the safety of the university community as a whole.

The Ball State community has a responsibility to maintain an environment free from harassment and discrimination. The university is committed to taking all appropriate steps to eliminate sexual harassment and misconduct, prevent its recurrence, and address its effects. The university seeks to foster a climate that is free from sexual harassment, sexual violence, stalking, and intimate partner violence through clear and effective policies, a coordinated education and prevention program, and prompt and equitable procedures for resolution of complaints that are accessible to all. The university expects and encourages all members, visitors, and guests of the Ball State community to participate in the process of creating a safe, effective, and respectful

---

<sup>1</sup> Ball State University recognizes that an individual may choose to self-identify as a victim or a survivor. For consistency in this policy, the term "complainant" will be used to refer to the individual who alleges conduct that violates this policy, regardless of whether that individual makes a report or seeks formal disciplinary action. A "respondent" refers to the individual who has been accused of conduct that violates this policy. "Third party" refers to any other participant in the process, e.g., a witness to an incident or an individual who makes a report on behalf of someone else.

environment on campus.

The university will not tolerate retaliation against an individual who makes a report or participates in an investigation. Retaliation, whether actual or threatened, destroys the sense of community and trust that is central to an effective educational environment. Ball State policy prohibits any form of reprisals or retaliation. Community members engaging in reprisals or retaliation will be subject to disciplinary action.

The university will make every reasonable effort to stop retaliation immediately, to conduct a complete and thorough investigation of alleged acts of retaliation in a timely manner, to provide remedies to victims of retaliation, and to sanction the perpetrators of retaliation as appropriate.

Sexual and gender-based harassment and violence committed by one student against another or directed toward a student by a university employee or other representative of the university violate Title IX of the Education Amendments of 1972. Ball State will not tolerate sexual harassment of and sexual violence directed at students in any of the university's programs or activities.

Ball State has designated **John Bowers** (contact information below) to serve as the institution's Title IX Coordinator. Inquiries or complaints concerning the application of Title IX may be referred to the university's Title IX Coordinator and/or the United States Department of Education:

Institutional Title IX Coordinator  
John Bowers  
Director of Institutional Equity and  
Internal Investigations  
Office of University Compliance  
Administration Building (AD) 335  
2000 W University Avenue  
Muncie, IN 47304  
Phone: (765) 285-5162  
Email: [jwbowers@bsu.edu](mailto:jwbowers@bsu.edu)

United States Department of Education:  
Office for Civil Rights, Chicago Office  
Citigroup Center  
500 W. Madison Street, Suite 1475  
Chicago, IL 60661-4544  
Telephone: 312-730-1560  
FAX: 312-730-1576; TDD: 800-877-  
8339  
Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

## **Application**

### **Complaints against Students or Student Organizations**

This policy applies to alleged violations by Ball State students, regardless of sexual orientation or gender identity, and student organizations as defined in the *Code of Student Rights and Responsibilities* (*Code*) which may be found at [www.bsu.edu/studentcode](http://www.bsu.edu/studentcode). Although the *Code* provides that any person (student, university employee, third party) may file a complaint against a student with the Office of Student Rights and Community Standards [Student Center L-5, (765) 285-5036], all complaints against students alleging sexual misconduct will be forwarded to the Associate Dean of Students/Title IX Coordinator for Student Affairs [Administration Building (AD) 238, (765) 285-1545]. Complaints against a student for sexual harassment or misconduct also may be filed with the University Police Department by calling (765) 285-1111.

### **Complaints against Employees**

The [Statement on Sexual Harassment](#) applies to complaints against employees. Complaints of sexual harassment or misconduct against an employee should be filed with the Office of University Compliance [AD 335, (765) 285-5162] or with the University Police Department

### **Complaints against Other Individuals**

Complaints of sexual harassment or misconduct against an individual who is not a student or employee (e.g., a guest of or visitor to the university) should be filed with the University Police Department located at 200 N. McKinley Avenue [(765) 285-1111].

### **On and Off Campus Behaviors**

This policy applies to conduct that occurs on campus or in the context of any university program or activity, including off-campus conduct in the context of a university program or activity. This policy also applies to conduct that has a continuing adverse effect or creates a hostile environment on campus or in any university program or activity whether on or off campus. Prohibited conduct that takes place off campus is covered in this policy when (from [Code section 2.2 Authority](#)) it is:

- a. Conduct that causes or threatens harm to the health or safety of a person or damage or destruction to the property of a member of the university community;
- b. Conduct in connection with an academic course assignment, internship, practicum, field trip, student teaching, research, or other university activity;
- c. Conduct in connection with any activity sponsored, conducted, or authorized by the university or by a student organization;
- d. Conduct involving serious crimes including all crimes of violence, felonies, or the sale or distribution of illegal drugs or controlled substances, if a police report has been filed, a summons or indictment has been issued, or an arrest has occurred; or
- e. Conduct adversely affecting the university community or indicating that the continued presence of a student on campus poses a threat to the student's well-being or the well-being of other members of the university community.

### **Notice of Non-Discrimination**

Ball State University is committed to establishing and maintaining an effective, safe, and nondiscriminatory educational environment in which all individuals are treated with respect and dignity. The university does not permit discrimination or harassment in its programs and activities on the basis of race, religion, color, sex (except where sex is a bona fide qualification), sexual orientation, gender identity/gender expression, physical or mental disability, national origin, ancestry, age, or any other characteristic protected by institutional policy or state, local, or federal law.

This policy addresses all forms of sexual discrimination, including sexual harassment, sexual violence, stalking, and intimate partner violence. Ball State University does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Sex discrimination is prohibited by Title IX of the Education Amendments of 1972, a federal law which provides that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

Sexual harassment is also prohibited under Title VII of the Civil Rights Act of 1964, Indiana state



law, and other applicable statutes.

This policy prohibits sexual harassment, sexual violence, stalking, and intimate partner violence against Ball State community members of any gender, gender identity, gender expression, or sexual orientation. This policy also prohibits gender-based harassment that does not involve conduct of a sexual nature, including hazing and stalking.

The university, as an educational community, will promptly and equitably respond to reports of sexual harassment, sexual violence, stalking, and intimate partner violence that it knew or should have known about in order to eliminate the harassment, prevent its recurrence, and address its effects on any individual or the community.

## **Title IX Coordinator**

Ball State has designated **John Bowers** to serve as the institution's Title IX Coordinator. The Title IX Coordinator will be informed of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence, and will oversee the university's centralized review, investigation, and resolution of those reports to ensure the university's compliance with Title IX and the effective implementation of this policy.

The Title IX Coordinator is:

1. Responsible for oversight of the investigation and resolution of all reports of sexual harassment, sexual violence, stalking, and intimate partner violence involving students, staff, and faculty;
2. Knowledgeable and trained in university policies and procedures and relevant state and federal laws;
3. Available to advise any individual, including a complainant, a respondent, or a third party, about the courses of action available at the university, both informally and formally, and in the community;
4. Available to provide assistance to any university employee regarding how to respond appropriately to a report of sexual harassment, sexual violence, intimate partner violence, or stalking;
5. Responsible for monitoring full compliance with all procedural requirements, record-keeping, and timeframes outlined in this policy; and
6. Responsible for overseeing training, prevention, and education efforts, and annual reviews of climate and culture.

The Title IX Coordinator is supported by the Associate Dean of Students/Title IX Coordinator for Student Affairs (**Katie Slabaugh**) and other Title IX Deputy Coordinators. In addition, based on the role of the complainant and the respondent, the Title IX Coordinator can designate other university employees to implement procedures outlined in this policy.

In cases that involve students, either as a complainant or a respondent, the Associate Dean of Students/Title IX Coordinator for Student Affairs is responsible for ensuring that Ball State responds to complaints in a **prompt, thorough, and impartial manner and coordinates** education and prevention efforts. During business hours, persons wishing to report sexual misconduct by or towards a student may call or email **Katie Slabaugh**, the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee at (765) 285-1545 or [kslabaugh@bsu.edu](mailto:kslabaugh@bsu.edu). Additional information about the duties of the Associate Dean of

Students/Title IX Coordinator for Student Affairs may be found below.

## **Privacy and Confidentiality**

The university is committed to protecting the privacy of all individuals involved in a report of sexual harassment, sexual violence, stalking, or intimate partner violence. In any report made under this policy, every effort will be made to protect the privacy interests of all individuals involved in a manner consistent with the need for a careful assessment of the allegation and any necessary steps to eliminate the harassment, prevent its recurrence, and address its effects.

The privacy of the parties will be respected and safeguarded at all times. All university employees who are involved in the university's Title IX response receive specific training and guidance about safeguarding private information.

Privacy and confidentiality have distinct meanings under this policy.

**Privacy:** Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those university employees who “need to know” in order to assist in the active review, investigation, or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process. Ball State will designate which university employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

**Confidentiality:** Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without express permission of the individual. Those campus and community professionals include medical providers, mental health providers, ordained clergy, victim advocates, and rape crisis counselors, all of whom have privileged confidentiality that has been recognized by federal or Indiana law. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others, or the conduct involves suspected abuse of a minor under the age of 18.

Community members wishing to seek completely confidential assistance may speak with counselors in the Ball State Counseling Center, the Victim Advocate in the Office of Victim Services, health service providers in the Health Center, off-campus rape crisis resources, such as A Better Way or the IU Ball Memorial Hospital Emergency Room, other health professional counselors, or members of the clergy/chaplains.

**Reporting on Campus:** It is important to understand that any Ball State employee who is not designated as a confidential resource under this policy is **required to promptly share** a report of sexual harassment, sexual violence, stalking, or intimate partner violence with the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs. In addition, there are a number of university personnel who are designated as “responsible employees.” Responsible employees have the additional authority and obligation to take action to redress the harassment in addition to their reporting duties. These employees include but are not limited to vice presidents, deans and associate deans, directors, and department chairpersons. Student resident assistants are also considered responsible employees. All employees, including responsible employees, are required to forward all known details of the reports they receive (including the identity of parties, time, date, location, and description of the alleged behavior) to the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs.

**Release of Information:** If a report of misconduct discloses a serious and continuing threat to the safety of the campus community, the university will issue a timely notification to the community to protect the health or safety of the community. The university may also share non-identifying information about the reports received; when the university does share this information, information (such as data about outcomes and sanction) is typically combined. At no time will the university release the name of a complainant to the general public without the express consent of the complainant or as otherwise permitted or required by law.

Statistical information will be shared with the University Police Department or the Office of Student Rights and Community Standards as needed to comply with the Clery Campus Safety and Security Act (a.k.a. “Clery Act”). The Clery Act requires Ball State to distribute an annual security report (available at [www.bsu.edu/fireandsafetyreports](http://www.bsu.edu/fireandsafetyreports)) to the U.S. Department of Education and Ball State students and employees; the report includes the number of certain criminal offenses that have been reported on or near campus. The information contained in the annual security report tracks the number of reportable offenses occurring at designated locations but does not include the names or any other identifying information about the persons involved in the incident.

No information shall be released from proceedings under this policy except as required or permitted by law and university policy.

## **Prohibited Conduct**

The university prohibits a variety of behaviors under this policy, many of which fall under the broad categories of sexual harassment, sexual violence, and intimate partner violence. Sexual harassment and sexual violence generally refer to verbal or physical acts that are unwelcome or without consent. Intimate partner violence, also referred to as dating violence or domestic violence, includes any act of violence or threatened act of violence against a person who is—or has been involved in—a sexual, dating, domestic, or other intimate relationship with that person. Intimate partner violence can encompass a broad range of behavior including but not limited to physical violence, sexual violence, emotional violence, and economic abuse. Intimate partner violence is also referred to as dating violence, domestic violence, and relationship violence. Domestic violence and dating violence are further defined as crimes by the state of Indiana; those definitions are included here as reports of these crimes can be found in Ball State’s annual security report [beginning with calendar year 2013]:

**Domestic violence** is defined as violence committed by a current or former spouse or intimate partner of the complainant; by a person with whom the complainant shares a child in common; by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner; by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the state of Indiana; or by any other person against an adult or youth who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Dating violence** is defined as violence committed by a person who is or has been in a relationship of a romantic or intimate nature with the complainant—characterized by the expectation of affection or sexual involvement between the parties—but not including acts covered by domestic violence as defined above.

The following conduct is specifically prohibited under this policy and may form the basis of specific charges under the [\*Code of Student Rights and Responsibilities\*](#) as modified by this policy:

## Sexual Harassment

Sexual harassment is defined as any unwelcome sexual advance, request for sexual favor or other unwelcome verbal or physical conduct of a sexual nature, when

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or participation in a university-sponsored education program or activity;
2. Submission to or rejection of such conduct by an individual is used as the basis or threatened to be used as the basis for employment decisions or academic decisions or assessments affecting an individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently serious, pervasive or persistent as to create an intimidating, hostile, or offensive living, working, or educational environment.

Sexual harassment also includes harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex/gender or sex/gender-stereotyping, even if the acts do not involve conduct of a sexual nature.

Sexual harassment can take many forms. Sexual harassment:

1. May be blatant and intentional and involve an overt action, a threat, or reprisal, or may be subtle and indirect, with a coercive aspect that is unstated.
2. Does **not** have to include intent to harm, be directed at a specific target, or involve repeated incidents.
3. May be committed by anyone, regardless of gender, age, position, or authority. While there is often a power differential between two persons—perhaps due to differences in age or their relative positions in social, educational, or employment relationships—harassment can occur in any context.
4. May be committed by a stranger, an acquaintance, or someone with whom the complainant has an intimate or sexual relationship.
5. May be committed by or against an individual or may be a result of the actions of an organization or group.
6. May occur by or against an individual of any sex, gender identity, gender expression, or sexual orientation.
7. May occur in the classroom, in the workplace, in residential settings, over electronic media (including the internet, telephone, and text), or in any other setting.
8. May be a one-time event or part of a pattern of behavior.
9. May be committed in the presence of others or when the parties are alone.
10. May affect the complainant and/or third parties who witness or observe harassment.

Sexually harassing behaviors differ in type and severity and can range from subtle verbal harassment to unwelcome physical contact. There is a wide range of behaviors that fall within the general definition of sexual harassment and many differing notions about what behaviors are and are not acceptable. Key determining factors are that the behavior is unwelcome, is based on sex or gender, and is reasonably perceived as offensive and objectionable under both a subjective and objective assessment of the conduct.

## **Hostile Environment Caused by Sexual Harassment**

A single, isolated incident of sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. A hostile environment occurs when unwelcome conduct of a sexual nature is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, or abusive educational environment. A hostile environment can be created by an employee, another student, or a visitor to the university.

The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:

1. The frequency of the speech or conduct;
2. The nature and severity of the speech or conduct;
3. Whether the conduct was physically threatening;
4. Whether the speech or conduct was humiliating;
5. The effect of the speech or conduct on the complainant’s mental and/or emotional state;
6. Whether the speech or conduct was directed at more than one person;
7. Whether the speech or conduct arose in the context of other discriminatory conduct;
8. Whether the speech or conduct unreasonably interfered with the complainant’s educational opportunities or performance (including study abroad), university-controlled living environment, or university-controlled work opportunities or performance;
9. Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness; and/or
10. Whether the speech or conduct is constitutionally protected or deserves the protections of academic freedom.

## **Non-consensual Sexual Intercourse**

Non-consensual sexual intercourse is having or attempting to have sexual intercourse with another individual by force or threat of force, without effective consent, or where that individual is incapacitated. *Sexual intercourse* includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand) or object, or oral penetration involving mouth-to-genital contact.

## **Non-consensual Sexual Contact**

Non-consensual sexual contact is having sexual contact with another individual, by force or threat of force, without effective consent, or where that individual is incapacitated. *Sexual contact* includes any intentional touching of the intimate parts of another, causing another person to touch one's own intimate parts, or disrobing or exposure of another without permission. Intimate parts may include the breasts, genitals, buttocks, groin, mouth, or any other part of the body that is touched in a sexual manner.

## **Sexual Exploitation**

Sexual exploitation is taking advantage of the sexuality of another person without consent or in a

manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose. Examples of sexual exploitation include but are not limited to:

1. Exposing one's genitals without consent;
2. Non-consensual streaming, audio- or video-recording, photographing, or transmitting intimate or sexual utterances, sounds, or images without consent of all parties involved;
3. Allowing others to view sexual acts (whether in person or via a video camera or other recording device) without the consent of all parties involved;
4. Engaging in any form of voyeurism (e.g., "peeping");
5. Prostituting another individual;
6. Compelling another individual to touch his or her own or another person's (third party) intimate parts without consent;
7. Knowingly exposing another individual to a sexually transmitted disease or virus without that individual's knowledge; and
8. Inducing incapacitation for the purpose of making another person vulnerable to non-consensual sexual activity.

### **Harm, Threat, or Endangerment**

Harm, threat, or endangerment is prohibited separately in the *Code of Student Rights and Responsibilities* as follows: "conduct that causes physical harm to any person is prohibited, as is any reckless or unauthorized conduct that threatens, endangers or reasonably could threaten or endanger the health or safety of any person. Conduct covered under this rule also includes but is not limited to intimidation, coercion, or impairment of any person's freedom of movement as well as verbal or written threats of any action described above."

When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

### **Harassment, Bullying, or Cyber-bullying**

Harassment, bullying, or cyber-bullying, are defined as repeated and/or severe aggressive behavior likely to or intended to intimidate, hurt, or control another person whether physically or mentally. These terms include but are not limited to: creating web pages; posting photos on social networking sites; and/or spreading rumors. When these acts occur in the context of intimate partner violence or when the behavior is perpetrated on the basis of sex or gender, the conduct will be resolved under this policy.

### **Stalking**

Stalking is a knowing or intentional course of conduct that (1) would cause a reasonable person to feel frightened, harassed, intimidated, threatened, or alarmed and (2) that causes the person who is the subject or target of the stalking to feel frightened, harassed, intimidated, threatened, or alarmed. Such actions could be either implicit or explicit threats against a specific person; an acquaintance, friend, family member, or pet of that person; or that person's property. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or to make unwelcome contact with another person in

an unsolicited fashion.

Examples of stalking include:

1. Unwelcome and repeated visual or physical proximity to a person;
2. Repeated oral or written threats;
3. Extortion of money or valuables;
4. Unwelcome/unsolicited written communication, including letters, cards, emails, instant messages, and messages on on-line bulletin boards;
5. Unwelcome/unsolicited communications about a person, their family, friends, or co-workers; or
6. Sending/posting unwelcome and/or unsolicited messages with another username;
7. Implicitly threatening physical conduct or any combination of these behaviors directed toward an individual person.

### **Retaliation**

Retaliation is any overt or covert act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against any person or group involved in the investigation and/or resolutions under this policy. This policy also prohibits retaliation against individuals who oppose, in a reasonable manner, an act or policy believed to constitute sex discrimination. Retaliation includes acts by the respondent, a third party, and agents of Ball State.

Retaliation can take many forms, including continued abuse or violence, threats, and intimidation. Any individual or group of individuals, including a complainant or respondent, can engage in retaliation and will be held accountable under this policy.

Actions by the university are considered retaliatory if they are: (1) in response to a good faith disclosure of real or perceived university-related misconduct, (2) the actions have a materially adverse effect on the working, academic, or university-controlled living environment of an employee or student; or if the faculty, employee, or student can no longer effectively carry out his or her university responsibilities; and, (3) there is a causal connection between the adverse impact and the protected activity.

Behavior that may be retaliation should be reported immediately to the Ball State police by calling (765) 285-1111 or the Associate Dean of Students/Title IX Coordinator for Student Affairs at (765) 285-1545.

### **Intimidation or Threats to Inhibit Reporting**

Intimidation is any threatened retaliation or other adverse action to prevent or otherwise obstruct the reporting of sexual misconduct or the participation in an investigation or adjudication related to sexual misconduct. Intimidation includes acts by the respondent, a third party, agents of Ball State, or any other individual.

Behavior that may be intimidation should be reported immediately to the Ball State police by calling (765) 285-1111 or the Associate Dean of Students/Title IX Coordinator for Student Affairs at (765) 285-1545.

## **Understanding Consent**

Consent is a knowing, voluntary, and clear mutual agreement to engage in sexual activity. Consent is effective when it is informed, freely and actively given, and communicated by clearly and mutually understandable words or actions to participate in each form of sexual activity. This includes the following concepts:

1. Consent cannot be given by someone who is incapacitated. Engaging in sexual activity with someone who one knows to be, or reasonably should know to be, incapacitated is a violation of this policy. [Incapacitation is defined below.] Where alcohol or other drugs are involved, incapacitation is assessed with respect as to how the alcohol or other drugs consumed affects a person's ability to understand fully the "who, what, when, where, why, and/or how" of his/her sexual interaction with someone else. An individual accused of sexual misconduct is not excused if he or she was intoxicated and, therefore, did not realize the incapacity of the other person.
2. Indiana law provides that a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old is a crime, as well as violation of this policy, even if the minor wanted to engage in the act.
3. Consent cannot be inferred from silence, passivity, or lack of active resistance.
4. Consent can be withdrawn at any time.
5. Consent does not exist when there is a threat of force, violence, or any other form of coercion or intimidation whether of a physical, psychological, or, for another example, financial nature. [See discussions on force and intimidation below.] A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor.
6. A current or previous dating or sexual relationship is not sufficient to constitute consent; past consent does not imply future consent; consent to one form of sexual activity does not imply consent to other forms of sexual activity; and consent to engage in sexual activity with one person does not imply or confer consent to engage in sexual activity with another person.

### **Incapacitation**

Incapacitation is a state where someone cannot make informed, rational judgments and cannot consent to sexual activity. States of incapacitation can be temporary or permanent and include but are not limited to unconsciousness, sleep, mental disability, or any other state in which a person is unaware that sexual activity is occurring.

Where alcohol or other drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affect a person's decision-making capacity, awareness of consequences, ability to make fully informed judgments, the capacity to appreciate the nature and quality of the act, or level of consciousness. In other words, a person may be considered unable to give effective consent due to incapacitation if the person cannot appreciate or understand the "who, what, when, where, why, and/or how" of a sexual interaction.

Incapacitation is a state beyond "under the influence," drunkenness, or intoxication. The impact of alcohol and other drugs varies from person to person; however, warning signs that a person may be approaching incapacitation may include slurred speech, vomiting, walking with difficulty or with assistance, odor of alcohol, combativeness, or emotional volatility. Evaluating



incapacitation also requires an assessment of whether a respondent should have been aware of the complainant's incapacitation based on objectively and reasonably apparent indications of impairment when viewed from the perspective of a sober, reasonable person in the respondent's position.

In determining whether consent has been given, the university will consider both (1) the extent to which a complainant affirmatively gives words or performs actions indicating a willingness to engage in sexual activity, and (2) whether the respondent was aware or reasonably should have known of the complainant's level of alcohol consumption and/or level of impairment. A respondent is not excused from responsibility if he or she was intoxicated and, therefore, did not realize the incapacity of the other person.

An individual who engages in sexual activity with someone the individual knows or reasonably should know is incapable of making a rational, reasonable decision about whether to engage in sexual activity is in violation of this policy.

### **Force**

Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual activity. There is no requirement for a party to resist the sexual advance or request, but resistance will be viewed as a clear demonstration of non-consent.

### **Coercion**

Coercion is the use of unreasonable and persistent pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including intimidation, manipulation, threats, and blackmail. Coercion may be emotional, intellectual, psychological, or moral. A person's words or conduct are sufficient to constitute coercion if they wrongfully impair another individual's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include (1) threatening to disclose another individual's private sexual information related to sexual orientation, gender identity, or gender expression and (2) threatening to harm oneself if the other party does not engage in the sexual activity. Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

### **Alcohol or Other Drugs**

Alcohol and drugs impair a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. It is especially important, therefore, that anyone engaging in sexual activity be aware of the other person's level of intoxication. If there is any doubt as to the level or extent of the other individual's intoxication or impairment, the prudent course of action is to forgo or cease any sexual contact or activity.

Being intoxicated or impaired by alcohol or other drugs does not reduce one's responsibility to obtain informed and freely given consent.

### **Assistance Following an Incident of Sexual Misconduct**

A first step for any complainant or third party witness may be choosing how to proceed following an incident of sexual harassment, sexual violence, stalking, or intimate partner violence. The university provides two distinct institutional resources:

**Confidential Resources**, which do not involve notifying the university of the incident unless the complainant requests such action; and

**Reporting Options**, which provide notice of the incident to the university and begin the Title IX assessment and ultimate resolution of the report through remedies or investigation and imposition of any appropriate sanctions.

It is also important to note that emergency medical and campus safety/law enforcement assistance are available both on and off campus, and all individuals are encouraged to contact law enforcement and seek medical treatment as soon as possible following an incident which poses a threat to safety or physical well-being.

The university is committed to treating all members of the community with dignity, care, and respect. Any individual affected by sexual harassment, sexual violence, stalking, or intimate partner violence, whether as a complainant, a respondent, or a third party, will have equal access to support consistent with their needs and available university resources.

This section outlines assistance from advocates, medical professionals, mental health professionals, law enforcement, and university officials that may be accessed immediately or on an on-going basis. Assistance is further noted as to its location—on or off campus—and whether or not the agency is a confidential resource or a reporting option.

#### **Confidential Resource: Immediate/Crisis Response On Campus**

It is especially important for students who have been sexually assaulted to seek immediate and appropriate medical treatment. Students are encouraged to seek evaluation for the collection of evidence, which is most useful if collected within 96 hours of the assault.

The **Office of Victim Services (OVS)** provides 24 hour victim advocacy and support. During office hours, the OVS can be reached at (765) 285-7844. A victim advocate is available after hours for emergencies by calling the Ball State University Police dispatch at (765) 285-1111 and requesting the on-call victim advocate be paged.

The **Ball State Counseling Center** may be reached for emergencies after normal working hours at (765) 747-7330.

#### **Confidential Resource: Immediate/Crisis Response Off Campus**

The **Indiana University Ball Memorial Hospital Emergency Services** (a.k.a., the “ER” or “emergency department”—located at 2401 W. University Ave) has a specially trained sexual assault team available 24 hours a day, seven days a week. Forensic exams (“rape kits”) for sexual assaults are provided at the ER. Under Indiana law, the tests and procedures at the hospital are free of charge if treatment is sought within 96 hours of the assault. ER staff may ask if the patient wishes to speak to the police; this decision is up to the patient. Persons undergoing the exam do not have to report to the police in order for the rape kit to be completed. A person has the option to file a police report up to a year after the rape kit is completed, which allows time to consider options and preferences, while still having critical evidence collected and preserved. The ER can be reached by calling 911 or (765) 747-3241. ER staff also will notify Ball State students of OVS support and contact the OVS upon request for support.

**A Better Way** provides advocacy services for victims and is a participating member of the Delaware County Sexual Assault Response Team (SART). **A Better Way** can be reached at (765) 288-4357.

### **Reporting Options: Immediate/Crisis Response On Campus**

The university encourages persons to report all incidents of sexual harassment, sexual violence, stalking, and intimate partner violence committed by students or any other person to the University Police Department regardless of where the incident occurred.

University Police Department—(765) 285-1111 (24 hour emergency line)

Incidents of sexual misconduct involving students that are reported to the University Police Department also will be referred to the Associate Dean of Students/ Title IX Coordinator for Student Affairs for follow-up and administrative investigation.

Associate Dean of Students/Title IX Coordinator for Student Affairs

During business hours, persons wishing to report sexual harassment or misconduct by a student may also call or email the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee at (765) 285-1545 or [kslabough@bsu.edu](mailto:kslabough@bsu.edu).

### **Reporting Options: Immediate/Crisis Response Off Campus**

**Muncie Police Department--911** (Depending on the caller's location, a call to 911 may result in a dispatch of University Police Department officers.)

### **Confidential Resource: Follow-up Health Care On Campus**

In addition to emergency response at the ER, the **Student Health Center** (on campus at 1500 Neely Avenue) is equipped to provide confidential and professional medical care including treatment (e.g., for injuries and infection), assistance, and support. Student Health Center staff members do not perform rape kits or collect any other evidence for the purpose of criminal prosecution. Assistance is offered for transportation to the ER for this purpose, but the collection of evidence is not a requirement for students to receive comprehensive care at the Student Health Center. Follow-up treatment or testing for sexually transmitted infections can be provided as well. The Student Health Center phone number is (765) 285-8431; the website is [www.bsu.edu/healthcenter](http://www.bsu.edu/healthcenter).

### **Confidential Resource: Follow-up Health Care Off Campus**

**Medical Testing/Preserving Evidence**—Preservation of evidence is an important consideration in sexual assaults. As noted above, Indiana University-Ball Memorial Hospital's ER services include access to certified Sexual Assault Nurse Examiners (SANE) 24 hours a day, seven days a week. SANE nurses can conduct forensic exams ("rape kits") for sexual assaults at the ER. Persons believing themselves to have been assaulted are advised to refrain from bathing or brushing teeth after an assault and to retain clothing worn during an assault as these actions help to preserve evidence collected during a forensic exam. Under Indiana law, the tests and procedures at the hospital are free of charge if treatment is sought within 96 hours of the assault. ER staff may ask if the patient wishes to speak to the police. This decision is up to the patient; a forensic exam can be conducted without making a report to a police officer. In these cases, evidence collected during a forensic exam is marked as "non-reporting," turned over to the police, and retained for one year.

**Health care** also is available through numerous private physicians and medical groups located in and around Muncie. The Ball State Counseling Center or Office of Victim Services staff members can provide assistance in identifying health care outside of the university or Indiana University-Ball Memorial Hospital.

### **Confidential Resource: Ongoing Assistance On Campus**

The following offices provide on-going counseling, advocacy, and/or other support for student complainants of sexual misconduct regardless of whether the student chooses to make an official report or participate in campus conduct or criminal justice processes.

The **Counseling Center** [located in Lucina Hall 320] is staffed by trained professionals who can provide confidential, specialized support and assistance to students who have been assaulted. Current students may seek counseling at any time after the incident. The Counseling Center can be reached at (765) 285-1736 (during office hours) and (765) 747-7330 for after-hours emergencies. The Counseling Center website is [www.bsu.edu/counselingcenter](http://www.bsu.edu/counselingcenter).

The **Office of Victim Services (OVS)** works closely with Counseling Center staff members to provide educational and supportive services for the Ball State University community related to sexual assault, intimate partner violence, and stalking. The program is designed to assist individuals in the recovery process by providing timely information and confidential support and guidance through the campus conduct and criminal justice systems. During office hours, the OVS can be reached at (765) 285-7844. A victim advocate is available after hours for emergencies by calling the Ball State University Police Department (765) 285-1111 and requesting the on-call victim advocate be contacted.

### **Confidential Resources: Ongoing Assistance Off Campus**

**Counseling services** are available through numerous private practices and agencies located in and around Muncie. The Ball State Counseling Center or Office of Victim Services staff members can provide assistance in identifying mental health care outside of the university.

**A Better Way** provides advocacy services for victims including a 24-hour crisis line at (765) 288-4357.

The **Muncie Police Department Victim Advocate** provides advocacy services for persons believing themselves to have been sexually assaulted and can be reached at (765) 747-4777.

### **Sexual Assault Response Team (Delaware County, IN)**

Indiana establishes Sexual Assault Response Teams (SART) by statute in each county's prosecutor's office. SART teams consist of a Sexual Assault Nurse Examiner (SANE) or forensic nurse examiner, a law enforcement officer trained to conduct sexual assault investigations, a victim advocate to provide emotional support and information, and prosecuting attorneys with special training in sexual assault investigation and prosecution. The University Police Department and Office of Victim Services are part of and coordinate services with other members of the Delaware County SART team.

### **Reporting Sexual Harassment and Misconduct**

Although a report may come in through many sources, the university is committed to ensuring that all reports alleging sexual harassment or misconduct by a student are referred to the Associate Dean of Students/Title IX Coordinator for Student Affairs, who will ensure consistent application of the policy to all individuals and allow the university to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and eliminate its effects.

Students can report an incident of sexual misconduct to the University Police Department by calling (765) 285-1111; Ball State police officers are available 24 hours a day, seven days a week. Incidents of sexual misconduct involving students that are reported to the University

Police Department also will be referred to the Associate Dean of Students/Title IX Coordinator for Student Affairs for follow-up and administrative investigation.

Students may also contact **Katie Slabaugh**, Associate Dean of Students/Title IX Coordinator for Student Affairs, directly to make a formal complaint during business hours. They may contact her or her designee at (765) 285-1545 or by email at [kslabaugh@bsu.edu](mailto:kslabaugh@bsu.edu). The Associate Dean of Students/Title IX Coordinator for Student Affairs will follow-up where appropriate in those instances where the university has a report of an incident of sexual assault or misconduct that has been reported by an employee or a law enforcement agency other than the University Police Department. The administrative investigation conducted by the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee is separate from any criminal investigation.

All Ball State employees who are not designated as a confidential resource under this policy are **required to promptly** share a report of sexual harassment, sexual violence, stalking, or intimate partner violence with the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs. In addition, there are a number of university personnel who are designated as “responsible employees.” Responsible employees have the additional authority and obligation to take action to redress the harassment in addition to their reporting duties. These employees include but are not limited to vice presidents, deans and associate deans, directors, and department chairpersons. Student resident assistants are also considered responsible employees. All employees, including responsible employees, are required to forward all known details of the reports they receive (including the identity of parties, time, date, location, and description of the alleged behavior) to the Institutional Title IX Coordinator or Associate Dean of Students/Title IX Coordinator for Student Affairs.

### **Timeframe for Reporting**

The university encourages persons to report all incidents of sexual misconduct, including sexual assault, stalking, or intimate partner violence by students regardless of when or where the incident occurred. There is no time limit for reporting. Regardless of when the incident occurred, the university will provide support and assistance, and will respond consistent with the procedural options available at the time of the report. Even when a matter does not fall under the jurisdiction of the university, university employees will act to provide support and assist a complainant in contacting the appropriate law enforcement or external agency.

### **Anonymous Reports**

Persons who wish to submit anonymous reports (which are examined to determine Clery Act timely warning and crime reporting requirements) can do so at [www.bsu.edu/silentwitness](http://www.bsu.edu/silentwitness), a service of the University Police Department.

### **Amnesty for Violations of Other Policies**

Ball State strongly encourages reporting of sexual misconduct but also recognizes that incidents of sexual misconduct can occur in conjunction with other policy violations, such as underage drinking or illicit drug use. The university’s priority is to address sexual misconduct. Therefore, students who provide information regarding sexual misconduct will not be disciplined for their behavior (a) that violated the university’s alcohol or drug policies and (b) that is connected with the reported incident of possible sexual misconduct. However, in circumstances where students engaged in behavior that placed any person’s (including their own) safety or health at risk, the university may provide those individuals appropriate educational or therapeutic support.

## **Academic Accommodations and Interim Measures**

When a student reports an incident of sexual misconduct to an office at the university, there are a number of immediate and interim measures that can be provided—in addition to the emergency and other support services described above—to ensure the safety and well-being of all parties and prevent retaliation by any party. The university will provide appropriate interim measures and accommodations regardless of the chosen course of action under this policy. A request for interim measures may be made by or on behalf of the complainant to the Institutional Title IX Coordinator, the Associate Dean of Students/Title IX Coordinator for Student Affairs, or the Office of the Vice President for Student Affairs/Dean of Students. The Institutional Title IX Coordinator will work through the Associate Dean of Students/Title IX Coordinator to ensure the implementation of appropriate interim steps and coordinate the university's response to these individual cases with the appropriate offices on campus.

These include but are not limited to:

1. Temporarily moving the student—if living in university housing—to other living/dining arrangements;
2. Assistance from university support staff in completing housing relocation;
3. Making alternative instructional arrangements (e.g., academic schedule) for the complainant, the respondent, or both;
4. Academic support, such as tutoring, rescheduling exams or assignments, or providing alternative course completion options;
5. Changes in class schedule, changing to a different course section if available, withdrawing from a class, or retaking a class without penalty;
6. Access to counseling services and assistance in setting up an initial appointment on or off campus;
7. Providing an escort to ensure safe movement between classes and activities;
8. Providing medical services;
9. Providing information to students and employees about visa and immigration assistance, and other available victim services, both on and off campus; and
10. Providing any other remedy which can be tailored to the involved individuals to achieve the goals of this policy.

During the investigation of a complaint, additional measures can be taken that include but are not limited to the following:

1. Issuing written instructions to the respondent restricting him or her from making contact with the complainant (also known as an administrative “no-contact order”);
2. Assisting a complainant in identifying options to obtain orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal, civil, or tribal court;
3. Temporarily moving the respondent—if living in university housing—to other living/dining arrangements;
4. Making alternative instructional (e.g., academic schedule) or on-campus work schedule arrangements for the respondent;

5. Limiting an individual or organization respondent's access to certain university facilities or activities pending resolution of the matter; and
6. Imposing an interim suspension on the respondent.

### **Interim Suspension**

The following information about interim suspension is excerpted from section 6.5.3 of the [Code](#) and is provided here for convenience:

“Under certain circumstances, a student accused of a violation of the [Code of Student Rights and Responsibilities](#) may be subject to interim suspension from the university prior to a University Review Board hearing. During the interim suspension, the student is subject to trespass from university property and facilities and is denied access to all classes, activities and privileges for which the student might be eligible. Interim suspension shall be imposed only when:

- a. A student is deemed to be a threat to the safety and well-being of the university community or property, or
- b. It is determined that such action would be beneficial to the student's own safety and well-being, or
- c. A student's presence is deemed to pose a substantial threat of disruption to the university's educational process.

The decision to suspend on an interim basis shall be made by the Vice President for Student Affairs and Dean of Students or her designee. The student will be notified in writing of this action and the reasons for the interim suspension. The notice should include the time, date, and place of a subsequent hearing within three business days at which the student may show cause why his or her continued presence on the campus does not constitute a threat [and at which they may contest whether a violation of the [Code](#) took place]. The interim suspension may continue until the entire disciplinary process including appeal, is completed. Every effort will be made to complete the disciplinary process in a timely manner so as to limit the interim suspension to the shortest time possible.”

## **Title IX Review and Investigation**

### **Overview of Procedural Options**

Upon receipt of a report, the Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee will conduct an initial Title IX assessment. The goal of this assessment is to provide an integrated and coordinated response to reports of sexual harassment, sexual violence, stalking, and intimate partner violence. The assessment will consider the nature of the report, the safety of the individual and of the campus community, the complainant's expressed preference for resolution, and the necessity for any interim remedies or accommodations to protect the safety of the complainant or the community.

Following this assessment, the Associate Dean of Students/Title IX Coordinator for Student Affairs may: (1) seek a remedies-based resolution that does not involve disciplinary action against a respondent; or (2) seek resolution through adjudication procedures (outlined below) by initiating an investigation to determine if disciplinary action is warranted. The goal of the investigation is to gather all relevant facts and determine if there is sufficient information to refer the report for disciplinary action.

Each resolution process is guided by the same principles of fairness and respect for all parties.

The resolution process outlined in this policy to resolve complaints is designed to protect the rights of both the complainant and the respondent. Resources are available for students, whether as complainants or respondents, for support and guidance throughout the investigation and resolution of the complaint.

### **Title IX Assessment**

The Associate Dean of Students/Title IX Coordinator for Student Affairs will conduct an initial Title IX assessment. In the course of this assessment, the Associate Dean of Students/Title IX Coordinator for Student Affairs will consider the interest of the complainant and the complainant's expressed preference for manner of resolution. Where possible and as warranted by an assessment of the facts and circumstances, the Associate Dean of Students/Title IX Coordinator for Student Affairs will seek action consistent with the complainant's request.

As part of the initial assessment of the facts, the Associate Dean of Students/Title IX Coordinator for Student Affairs will:

1. Assess the nature and circumstances of the allegation;
2. Address immediate physical safety and emotional well-being;
3. Notify the complainant of the right to contact, or decline to contact, law enforcement and seek medical treatment;
4. Notify the complainant of the importance of preservation of evidence;
5. Inform the University Police Department so that the reported conduct can be assessed regarding the need to issue a timely warning under the Clery Act;
6. Request the University Police Department to enter a report into the university's daily crime log;
7. Provide the complainant with information about on and off-campus resources;
8. Notify the complainant of the range of interim accommodations and remedies;
9. Provide the complainant with an explanation of the procedural options to resolve the complaint, including remedies-based resolution and resolution through adjudication procedures;
10. Inform the complainant and respondent of the right to have an adviser and/or support person for all subsequent meetings and proceedings;
11. Assess for pattern evidence or other similar conduct by respondent;
12. Discuss the complainant's expressed preference for manner of resolution and any barriers to proceeding; and
13. Explain the university's policy prohibiting retaliation.

The initial review will proceed to the point where a reasonable assessment of the safety of the individual and of the campus community can be made and the university has sufficient information to determine the best course of action.

At the conclusion of the Title IX assessment, the Associate Dean of Students/Title IX Coordinator for Student Affairs will determine the appropriate manner of resolution, which may include remedies-based actions or the initiation of an investigation to determine if adjudication is warranted. It is at the discretion of the Associate Dean of Students/Title IX Coordinator for



Student Affairs to determine which method of resolution is appropriate. Any individual wishing to explore alternative dispute resolution methods is encouraged to discuss these options with the Associate Dean of Students/Title IX Coordinator for Student Affairs.

The determination as to how to proceed will be communicated to the complainant in writing. Depending on the circumstances and requested resolution, the respondent may or may not be notified of the report or resolution. A respondent will be notified when the university seeks action that would impact a respondent, such as protective measures that restrict the respondent's movement on campus, the initiation of an investigation, or the decision to involve the respondent in remedies-based resolution.

### **Complainant Agency and Autonomy to *Not* Proceed**

The university will seek action consistent with the complainant's request where possible. Where a complainant makes a report but requests that a name or other identifiable information not be shared with the respondent or that no formal action be taken, the Associate Dean of Students/Title IX Coordinator for Student Affairs will balance this request with the university's dual obligation to provide a safe and non-discriminatory environment for all Ball State community members and to ensure fundamental fairness through due process which requires notice and an opportunity to respond before action is taken against a respondent.

In the event that a complainant does not wish to proceed with an investigation or adjudication, the Associate Dean of Students/Title IX Coordinator for Student Affairs will determine, based on the available information, including any investigative report, whether the investigation or judicial resolution proceedings should nonetheless go forward.

In making this determination, the university will consider, among other factors:

1. Whether the complainant has requested confidentiality;
2. Whether the complainant wants to participate in an investigation or conduct hearing;
3. The severity and impact of the conduct;
4. Whether the reported misconduct was perpetrated with a weapon;
5. The respective ages of the parties;
6. Whether the complainant is a minor under the age of 18;
7. Whether the respondent has admitted to the conduct;
8. Whether the respondent has demonstrated a pattern of similar conduct;
9. The extent of prior remedial methods taken with the respondent;
10. The rights of the respondent to receive notice and relevant information before disciplinary action is initiated;
11. Whether the report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group; and
12. The existence of independent evidence.

The university will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so effectively may be limited based on the nature of the request by the complainant. The university will assess any barriers to proceeding, including retaliation, and will inform the

complainant that Title IX prohibits retaliation and the university will take strong responsive action to protect the complainant. Where the university is unable to take action consistent with the request of the complainant, the Associate Dean of Students/Title IX Coordinator for Student Affairs or designee will communicate with the complainant about the university's chosen course of action, which may include the university choosing to pursue action against a respondent on its own behalf. Alternatively, the course of action may also include steps to limit the effects of the alleged misconduct and prevent its recurrence that do not involve formal disciplinary action against a respondent or revealing the identity of the complainant.

### **Remedies-Based Resolution**

Remedies-based resolution is designed to eliminate a hostile environment without or in addition to taking disciplinary action against a respondent. Where the Title IX assessment concludes that remedies-based resolution may be appropriate, the university will take immediate and corrective action through the imposition of individual and community remedies designed to maximize the complainant's access to the educational, extracurricular, and employment activities at the university and to eliminate a hostile environment. Examples of protective remedies are provided in the earlier section *Academic Accommodations and Interim Measures*. Other potential remedies include increased monitoring, supervision, or security at activities or locations where the alleged misconduct occurred; targeted or broad-based educational programming or training; supported direct confrontation of the respondent; and/or indirect action by the Associate Dean of Students/Title IX Coordinator for Student Affairs, her designee or the university. Depending on the form of remedies-based resolution used, it may be possible to maintain the complainant's anonymity.

The university will offer mediation for appropriate cases, but will not compel a complainant to engage in mediation, to directly confront the respondent, or to participate in any particular form of remedies-based resolution. Mediation, even if voluntary, will not be used in cases involving sexual assault. The decision to pursue remedies-based resolution will be made when the university has sufficient information about the nature and scope of the conduct, which may occur at any time. Participation in remedies-based resolution is voluntary, and a complainant can request to end remedies-based resolution at any time.

The Title IX Coordinator will maintain records of all reports and conduct referred for remedies-based resolution, which will typically be initiated within thirty (30) business days of the initial report.

### **Investigation Procedures and Protocols**

Where the Title IX assessment concludes that further investigation and disciplinary action may be appropriate, the Associate Dean of Students/Title IX Coordinator for Student Affairs will initiate an investigation by designating one or more investigators who have specific training and experience investigating allegations of sexual harassment, sexual violence, stalking, and intimate partner violence. Any investigator chosen to conduct an investigation must be impartial and free of any actual conflict of interest.

Briefly, during an investigation, both the complainant and respondent have an equal right to

1. Protection under applicable privacy laws (e.g., FERPA);
2. Be informed of the university's student conduct process;

3. Have an advisor of their choice (this person may be a friend, instructor, parent, or attorney) accompany and assist them during interviews, meetings or hearings. However, the advisor may not represent or speak for the complainant or respondent. Any expenses related to the advisor will be borne by the party;
4. Receive reports of the investigation's status;
5. Present witnesses and evidence they believe to be relevant to the investigator; and
6. Meet with the investigator prior to the completion of the investigation to review the investigator's preliminary report, request additional information (e.g., a witness) be considered, and be given an opportunity to provide a written response that will be included in the final report.

The investigator will conduct the investigation in a manner appropriate given the case's circumstances. The investigator will coordinate the gathering of information from the complainant, the respondent, and any other individuals who may have information relevant to the determination. Information gathering from parties may take the form of face-to-face interviews or through other means, will usually be recorded, and may include follow-up after an initial interview. The investigator will also gather and review any available physical evidence, including documents, communications between the parties, and other electronic records as appropriate. Technical rules of evidence regarding handling and preservation of information, such as are applied in a criminal proceeding, are not used in the university's administrative investigations.

The complainant and respondent will have an equal opportunity to be heard, to submit information, and to identify witnesses who may have relevant information. Witnesses must have observed the acts in question or have information relevant to the incident and cannot be participating solely to speak about an individual's character. In gathering the facts, the investigator may consider prior allegations of, or findings of responsibility for, similar conduct by the respondent to the extent such information is relevant.

The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. As described in the earlier *Privacy and Confidentiality* section, the investigation will be conducted in a manner that is respectful of individual privacy concerns. Throughout the process, a complainant or respondent may have an advisor of his or her choice (this person may be a friend, instructor, parent, or attorney—any expenses related to the advisor will be borne by the party) present at any meeting related to the investigation. While the parties are not restricted from discussing and sharing information relating to their complaints with others that may support them or assist them, the university expects that the parties will respect the privacy of other parties and the integrity of the process.

The university will seek to complete the initial fact-finding phase investigation within twenty-five (25) business days of receiving the complaint. This time frame may be extended for good cause as necessary to ensure the integrity and completeness of the investigation, to comply with a request by external law enforcement, to accommodate the availability of witnesses, to account for university breaks or vacations, or to address other legitimate reasons. Any extension of the timeframe, and the reason for the extension, will be shared with the parties in writing. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

At the request of law enforcement, the university may agree to defer its Title IX fact-gathering until after the initial stages of a criminal investigation have been completed. The university will

nevertheless communicate with the complainant regarding Title IX rights, procedural options and the implementation of interim measures to assure the safety and well-being of all affected individuals. The university will promptly resume its Title IX fact-gathering as soon as law enforcement has released the case for review following the initial criminal investigation.

Information gathered during the review or investigation will be used to evaluate the responsibility of the respondent, provide for the safety of the complainant and the university campus community, and take appropriate measures designed to end the misconduct, prevent its recurrence, and address its effects.

The Associate Dean of Students/Title IX Coordinator for Student Affairs or her designee will document each report or request for assistance in resolving a report under this policy and will review and retain copies of all reports generated as a result of investigations. These records will be kept confidential to the extent permitted by law.

### **Review of Investigation Report**

At the conclusion of the investigation, the investigator will prepare a written report that summarizes the information gathered and synthesizes the areas of agreement and disagreement between the parties and any supporting information or accounts. In preparing the report, the investigator will review all facts gathered to determine whether the information is relevant and material to the determination of responsibility given the nature of the allegation. In general, the investigator may redact information that is irrelevant, more prejudicial than informative, or immaterial. The investigator may also redact statements of personal opinion, rather than direct observations or reasonable inferences from the facts, and statements as to general reputation for any character trait, including honesty.

Before the report is finalized, the complainant and respondent will be given the opportunity to review their own statement and, as permitted by FERPA, a summary of other information collected during the investigation, including the statements of the other party and any witnesses. A complainant and respondent may submit any additional comment or evidence to the investigator within three (3) business days of the opportunity to review the relevant portions of the report.

Upon receipt of any additional information by the complainant or respondent, or after the three (3) day comment period has lapsed without comment, the investigator will finalize the report and submit it to the Associate Dean of Students/Title IX Coordinator for Student Affairs.

### **Preliminary Determination**

The Associate Dean of Students/Title IX Coordinator for Student Affairs, in consultation with the Director of Student Rights and Community Standards, will make a preliminary determination, by a preponderance of the evidence, regarding whether a policy violation occurred. Both the complainant and respondent will be informed of this determination in writing.

### **Insufficient Information to Warrant Subsequent Adjudication**

If the Associate Dean of Students/Title IX Coordinator for Student Affairs, in consultation with the Director of Student Rights and Community Standards, makes a preliminary determination that no policy violation occurred, the complainant will have the opportunity to seek review by the Institutional Title IX Coordinator by submitting a written request for additional review within three (3) business days. The respondent will be notified of this request and have the opportunity to respond within three (3) business days. The Institutional Title IX Coordinator may (1) agree with

the preliminary determination, (2) reverse the finding and refer the case for adjudication, or (3) request that additional investigative steps be taken. The Institutional Title IX Coordinator will render a decision in writing to both parties within ten (10) business days of receipt of the request for review. The decision of the Institutional Title IX Coordinator is final.

### **Sufficient Information to Warrant Subsequent Adjudication**

If the Associate Dean of Students/Title IX Coordinator for Student Affairs, in consultation with the Director of Student Rights and Community Standards, makes a preliminary determination that a policy violation occurred, the Associate Dean of Students/Title IX Coordinator for Student Affairs will forward the investigative report to the Office of Student Rights and Community Standards for a final determination regarding adjudication.

### **University Adjudication Procedures**

Where there is a preliminary determination that a policy violation occurred, adjudication will be governed by the Ball State [\*Code of Student Rights and Responsibilities\*](#) and as modified below. Following the preliminary determination, the Director of Student Rights and Community Standards or his designee (Director) will prepare a notice of charge regarding the applicable sections of this policy. The notice will include a recommended sanction and/or remedy. This notice will be sent within five (5) business days of receipt of the final investigative report.

The Director will request separate meetings with the parties to review the determination made by the Director and subsequent procedures including options for the respondent to (a) accept responsibility for the charged violation and seek an informal resolution or (b) contest the charged violation and request a hearing.

1. As specified elsewhere, both the complainant and the respondent may be accompanied at this meeting by an advisor of their choice;
2. Prior to the meeting, both the complainant and respondent have an equal right to review the final report and any other information that will be used at the meeting in a timely manner prior to the meeting;
3. If the respondent accepts responsibility in writing and seeks an informal resolution, the Director may impose sanctions up to and including suspension but not expulsion from the university;
4. If the respondent requests a hearing, the Director will convene the Sexual Misconduct Board to conduct a hearing and determine if a violation has occurred. The determination in the hearing will be made using a preponderance of evidence standard.

### **Hearings**

1. The Sexual Misconduct Board (SMB) is comprised of faculty and professional employees who undergo annual, comprehensive, and specialized training in order to hear sexual misconduct cases. For a hearing, three SMB members will comprise a hearing panel; one member will serve as a chairperson. Prior to the hearing, the SMB panel members will review the investigative report, witness statements, and relevant documentary evidence.
2. Both the complainant and respondent will be notified in writing of the date, time, and location of the hearing, their rights at the hearing, the names of the panelists, and

information on how to raise issues about potential conflicts of interest on the part of any panelist.

3. Alleged violations of related conduct (other than sexual misconduct) that may have been committed by the respondent as part of the same incident may be addressed in the same adjudication procedure. The decision to do so will be at the sole discretion of the Director. The inclusion of related matters, however, will not delay the prompt resolution of a report of sexual misconduct.
4. Normally, the SMB panel will expect to hear testimony from the following persons: complainant, respondent, and the designated investigator(s). However, after its review of the case file, the SMB panel may instruct the Director to solicit any witnesses previously interviewed by the investigator(s) to attend the hearing, provide testimony, and respond to additional questions. The SMB hearing panel may limit or reject any other witness not interviewed previously by the designated investigator or requested by the SMB panel. Character witnesses will not be allowed to testify but may provide written statements to be considered at the time of sanction determination if a sanctioning recommendation is required.
5. The Director will be responsible at the hearing for compiling documentation for the SMB panel's review and presenting the case against the respondent.
6. The parties' rights at the hearing include being present at the entire hearing, presenting evidence and testimony, being allowed equal and timely access to information to be presented at the hearing, and being allowed the presence of an advisor of their choice.
7. The Director normally will make arrangements to convene hearings in such a manner to limit direct contact between the complainant and respondent but allows effective participation by both parties (e.g., conducting the hearing in separate rooms connected by teleconferencing). The Director will consider but retain the final decision regarding an arrangement where all parties are in the same room for the hearing if requested by either party and if both parties agree to such an arrangement.
8. The complainant and respondent may ask questions of each other by submitting questions in writing to the hearing chairperson (face-to-face "cross-examination" is not permitted). The chairperson may choose to ask some but not all questions on behalf of the party submitting the questions and also may choose to reword questions to improve the information gathered and/or to reduce confrontation.
9. The parties also will be allowed to question witnesses requested/allowed to provide testimony by the SMB panel. The questioning by the parties will proceed in a manner similar to that described above.
10. In order to meet Ball State's obligations to investigate and address patterns of sexual misconduct, the university may admit previous accusations of sexual misconduct and violations of law and policy regarding sexual misconduct as evidence in hearings on current complaints.
11. Questioning or presentation of evidence about the complainant's prior sexual conduct with anyone other than the alleged perpetrator will be prohibited, unless the information is relevant to explain a physical finding or motive.

12. While evidence of a prior consensual dating or sexual relationship between the parties may be presented, the SMB and the parties are advised that the prior relationship by itself does not imply consent or preclude a finding of sexual misconduct.
13. After conducting the hearing, the SMB panel will excuse all parties and deliberate with a professional staff member designated by the Student Rights and Community Standards office to serve as advisor and secretary to the panel. The SMB panel members will determine which facts they will rely on for their decision and then determine (a) that the respondent is responsible for a violation of the sexual misconduct policy or (b) that there is insufficient information to find the respondent responsible for a violation of this policy. If the SMB panel finds the respondent responsible for violating the sexual misconduct policy, it will make a recommendation for sanctioning to the Director. The decision, rationale, and sanctions if appropriate will be delivered to the Director in writing within three (3) business days of the decision.
14. In cases where a student is found responsible for sexual misconduct, the SMB panel is required to consider suspension or expulsion but may recommend any lesser sanctions it believes to be fair and proportionate to the violation and its impact on the complainant.
15. The Director may accept, lessen, or request specific reconsideration of the panel's recommendations for sanctioning; he may not increase the severity of the recommended sanctions.
16. The Director will be responsible for finalizing the board's finding regarding responsibility for the violation, reviewing the board's recommendation for sanctions if applicable, determining appropriate sanctions, and notifying the parties of the hearing's final outcome.
17. Any procedural right given to the respondent will be extended to the complainant and vice versa.
18. Any procedures for the hearing not specifically addressed above will be guided by section 6.5.5 *Procedures for Disciplinary Hearings* of the [Code](#).

### **Notice of Outcome**

Both the complainant and the respondent will be notified simultaneously in writing of the outcome of the informal resolution or hearing (that is, whether the sexual misconduct policy was found to have been violated) including a rationale for the decision and a statement of the parties' options to appeal. The respondent also will be notified of all sanctions that have been imposed. In cases of sexual assault, the complainant will be notified of the same information; in cases of sexual misconduct violations less than assault, the complainant will be notified of the outcome and sanctions imposed against the respondent that are related directly to the complainant. Both the complainant and the respondent will also receive simultaneous written notification of any changes to the outcome before it becomes final and will be informed when the outcome is final.

Ball State neither encourages nor discourages the subsequent disclosure of the written notification by either party. Ball State will not require any party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent subsequent disclosure of information related to the outcome of the proceedings.

### **Sanctions, Remedies, and Other Accommodations**

After the final determination of a disciplinary proceeding against a student for sexual

misconduct, the Director may impose sanctions including but not limited to: disciplinary probation, mandated assessments, other educational sanctions, suspension, and expulsion (see the Ball State [\*Code of Student Rights and Responsibilities\*](#) section 6.6 *Sanctions* for a complete list of sanctions). The Director may also continue remedies and accommodations for the complainant already in place (e.g., continued restrictions on contact by the respondent or altered living, instructional, or work arrangements) and work with the Associate Dean of Students/Title IX Coordinator for Student Affairs to ensure additional needed remedies for the complainant, or the university community, or both are implemented.

### **Appeals**

Either party may appeal the outcome of the proceedings. In cases where the respondent has accepted responsibility and sought an informal resolution in lieu of a formal hearing, the respondent and complainant may only appeal on the basis of the severity/insufficiency of sanctions. Sexual Misconduct Board panel hearing procedures and outcomes may be appealed on multiple bases that are limited to:

1. Substantial procedural error that unreasonably impaired the student or the hearing body;
2. An unduly harsh sanction (appeal by the respondent) or an insufficient sanction (appeal by the complainant);
3. New information of a substantive nature sufficient to alter a decision, because such information and/or facts were not known to the person appealing at the time of the original hearing; and
4. Information of substantial bias on the part of the disciplinary body hearing the case.

Complete information about appeals can be found at section 6.5.7 *Appeal Process* in the [\*Code\*](#).

### **Communication with Parties**

University-issued email is the primary means of communication used by the university. The Title IX Coordinator, Associate Dean of Students/Title IX Coordinator for Student Affairs, designated investigators, and the Director of Student Rights and Community Standards may deliver notice to parties by one or more of the following methods:

1. In person by the Title IX Coordinator or designated university administrator;
2. Mailed to the local or permanent address of the individual as indicated in official university records; or
3. Emailed to the individual's university-issued email account.

Notice sent via email will be presumed to have been received by parties. In all other circumstances, the party is expected to confirm receipt of the communication to the Associate Dean of Students/Title IX Coordinator for Student Affairs within three (3) business days.

### **Ball State's Clery Act/Annual Security Report Obligations**

Ball State is obligated to report the incidence of certain crimes that occur on and around Ball State property to the public and the U.S. Department of Education in an annual security report. Information from these incidents—when reported to Ball State police, the Associate Dean of Students/Title IX Coordinator for Student Affairs, other responsible employees, and Campus Security Authorities—is included in an aggregated statistical report which does not disclose any information that identifies complainants. Information about reported incidents of sexual



misconduct is also examined to determine if timely warnings must be issued to Ball State community members. Likewise, timely warnings do not include any information that identifies complainants. More information about Ball State's Clery Act/Annual Security Report obligations, including crime reports and information about Campus Security Authorities, can be found at [www.bsu.edu/fireandsafetyreports](http://www.bsu.edu/fireandsafetyreports).

## **Prevention and Education**

Ball State employs a comprehensive, harm reduction approach to prevention of sexual misconduct as well as related alcohol abuse and other drug use. All new students to the university, beginning Fall 2014, will be provided an educational program that addresses sexual assault, consent, the role of alcohol and other drugs, stalking, intimate partner violence, risk reduction, and effective bystander intervention. The program also will introduce Ball State's policies on sexual misconduct, alcohol, and other drugs.

In addition to the program described above, a number of offices (e.g., Office of Victim Services, Counseling Center, University Police Department, and the Office of Health, Alcohol and Drug Education) provide regular programming for residence halls, classrooms, and student organizations. Programming is designed to meet the needs of the audience and campus wide social marketing campaigns are utilized annually. Targeted programming occurs during specific awareness campaigns such as National Collegiate Alcohol Awareness Week and Sexual Assault Awareness Month.

## **Training**

Beginning Fall 2014, all new Ball State employees will be trained on policies, prevention, response, and reporting obligations regarding sexual misconduct. Training will be coordinated by University Human Resources.

Faculty and staff members who are designated responsible employees, Title IX coordinators and designated investigators, members of the University Police Department, victim advocates, faculty, and staff members involved with adjudicating sexual misconduct cases are provided annual, comprehensive, and specific training on to how to respond appropriately to reports of sexual violence, reporting obligations, the extent to which they may keep reports confidential, how to identify and respond to sexual violence, bystander intervention, victimization and re-victimization, trauma-informed support, and to whom reports must be made.

## **Maintenance of Records**

The university will maintain records of sexual misconduct complaints, including audio recordings of hearings, in a manner and for a period of time that complies with federal law including Title IX and the Clery Campus Safety and Security Act.

## **Policy and Implementation Modifications**

This policy may be modified as needed, with published notice, and minor deviations may be made with notice to the parties in any complaint, when the deviation will not impact on the fairness of the process or the outcome of the complaint. Further, to the extent that any of the provisions of this policy are found to be inconsistent with state or federal law or regulations, those laws and regulations will be applied.

## **APPENDIX L – Tobacco-Free Campus Policy**

*Note: The text below is provided for convenience. The most current and accurate version of this policy may be found at <http://www.bsu.edu/tobaccofree>.*

Ball State University is committed to providing a healthy working and learning environment for the entire campus community. The purpose of this policy is to reduce harm from tobacco use and secondhand smoke, provide an environment that encourages persons to be tobacco-free, reduce health insurance and health care costs, and promote a campus culture of wellness. Therefore, Ball State University establishes the following smoking policy for all facilities, campus areas and vehicles in which university functions or services are carried out or offered. All university students, employees, contractors, and visitors are subject to these regulations.

1. As used herein, tobacco includes but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff, chewing tobacco and any non-FDA approved nicotine delivery device.
2. Tobacco use is prohibited on Ball State University campus.
3. Tobacco use is prohibited in all university vehicles, including maintenance vehicles, automobiles, and public carriers.
4. Tobacco use is prohibited in all university housing units.
5. Tobacco use will be permitted in the tailgating areas on home football game days only; otherwise the area is to be tobacco free.
6. University regulated parking areas are included in the ban. Tobacco use in enclosed personal vehicles will be permitted as long as users contain smoke and tobacco products inside the vehicle (e.g. windows must be closed). Failure to do so is a violation of this policy.
7. Adherence to this policy is the responsibility of all members of the University community. It is expected that students, faculty, staff, University affiliates, contractors and visitors to campus will comply with this policy. Members of the University community are empowered to respectfully inform others about the policy to ensure compliance. Primary enforcement of this smoking policy will be the responsibility of those persons who head individual units, departments, buildings, student housing units, those who supervise personnel, Public Safety personnel, and other designees.
  - A. Failure to comply with this policy shall result in a fine of \$100 per occurrence.
  - B. The Office of Bursar will be responsible for fine collection and account maintenance. Monies collected from fine assessments will be used to fund smoking cessation initiatives, health education, and other relevant health and wellness related programs.
  - C. Citations may be appealed through the University Traffic Appeals Subcommittee. All appeals will be handled in a manner consistent with traffic appeal procedures.

- D. Failure of a student or employee to pay a fine shall be subject to existing policies and procedures for collecting delinquent accounts owed the university.
8. This smoking policy shall be effective August 1, 2013.

## **APPENDIX M – Student Leaves for Funerals, Bereavement, and Jury Duty**

### **A. Funeral and Bereavement Leave**

1. Students will be excused from class for funeral leave in the event of the death of a member of the student's family or household. The number of excused absences allowed is determined by the distance of funeral services from Muncie, Indiana, as follows:

**Three school days** - Within 150 miles radius of Muncie

**Four school days** - Between 150-300 miles radius of Muncie

**Five school days** - Beyond 300 miles radius of Muncie

**Seven school days** - Outside of North America

If the student is unable to attend the funeral services, the student will be allowed three **school** days for bereavement.

### **B. Jury Duty Leave**

1. Ball State supports the responsibilities of citizens and encourages students to engage in the Muncie and home communities. One expectation of citizenship is jury duty.
2. Ball State University advises students summoned for jury duty to contact the court as soon as possible and to request a deferral if jury duty will interfere with classes. Many jurisdictions allow college students to defer service to a later date, or may even exempt college students from serving on juries.
3. Absences will be excused for students who are summoned to report for jury duty or to serve as a witness in court during class time. Official documentation of jury service dates or a copy of the subpoena to be a witness must be submitted to instructors in order for absences to be excused. Students are expected to make up academic work.

### **C. Absence Notification**

A student may contact the Office of Student Rights and Community Standards to request that an informational notice (without verification) be sent to the student's instructor(s). The student will provide documentation to each instructor. Given proper documentation, the instructor will excuse the student from class and provide the opportunity to earn equivalent credit for assignments missed. If the student is not satisfied with the outcome, he or she may appeal as outlined in this policy

### **Procedures for Appeals Regarding Student Funeral, Bereavement Leave, or Jury Duty Leaves**

- A. To initiate an appeal regarding a leave, the student must request a review of the dispute by contacting (in person, by phone, or by letter) the faculty member, or in his or her absence the department chairperson. Students are strongly encouraged to request the review as soon as the conflict becomes apparent, but must request the review no later than ten (10) school days after the start of the next academic (fall, spring, or summer) semester following the semester or summer session in which the funeral and bereavement conflict occurred. The faculty member, or in his or her absence the department chairperson, must respond to the student's

request within ten (10) school days after receipt of the request.

- B.** If the matter cannot be resolved with the faculty member, the student must inform the department chairperson of the disagreement with the faculty member and present the student's side of the dispute. The department chairperson will then attempt to resolve the dispute by consulting all affected parties.
- C.** If the department chairperson cannot resolve the dispute to the student's satisfaction, the student may continue with the appeals process by contacting the Dean of the College in which the department resides. The Dean will then attempt to resolve the dispute by consulting all affected parties. If the Dean of the College cannot resolve the dispute to the student's satisfaction, the student may appeal to the Provost and Vice President for Academic Affairs, who will consult all affected parties. The decision of the Provost and Vice President for Academic Affairs is final.
- D.** In the case that the faculty member involved in the appeal is the administrator next in the line of the appeal process, then the appeal will move directly to the next level.

## **APPENDIX N - Use of University Property for Expressive Activities**

*Please direct questions about this policy to Business and Auxiliary Services at 765-285-1104  
Revised October 31, 2012*

Ball State University property is intended to be used by its students, employees and others to further the University's educational mission, goals and programs. In fulfilling its educational mission, the University recognizes the importance of free speech, which includes the right to engage in "expressive activities" such as assembling, demonstrating, marching, constructing temporary structures and signs, distributing or posting materials, and other similar means of expressing thoughts and ideas, so long as such expressions are conducted in an orderly manner that respects the rights of others in the campus community.

This policy sets forth rules and procedures governing the time, place and manner for engaging in expressive activities on University property, to ensure they do not endanger the health, safety and welfare of individuals or disrupt the University's academic programs. It applies to all students, employees, visitors and other individuals while on the Ball State University campus. This policy does not replace, but supplements, applicable federal, state and local laws and regulations.

All events involving expressive activities must be scheduled and approved in advance of the event with the following exceptions: (1) an out-of-doors demonstration or assembly that is not reasonably expected to involve more than fifty (50) people; and (2) a distribution of materials by hand out-of-doors in designated areas not involving the use of tables, booths or other similar set-ups. Persons or groups desiring to hold or sponsor an event involving expressive activities that must be scheduled and approved in advance should contact the Campus Reservationist **at least three (3) business days** prior to the event and complete the required forms. The decision whether to approve the event will be made by the Assistant Vice President of Student Affairs/Director of Student Life on a content-neutral basis, after consulting in appropriate cases with the Associate Vice President for Facilities Planning and Management, the Director of Public Safety and/or General Counsel. Events sponsored by students, employees, or recognized student organizations will have priority over other events. In the event that multiple events with equal priority are scheduled and approved, the event that is scheduled first will be held in the approved location. If possible, an alternate location for the second event will be identified.

### **Definitions**

Unless expressly defined in this policy, the definitions in Ball State's "Policy Concerning Campus Use" apply to this policy also.

### **Restrictions Applicable to all Expressive Activities**

The following restrictions apply to all expressive activities covered by this policy:

- 1) Permission for any activity covered by this Policy may be denied or revoked if:
  - a. The proposed activity would interfere with the free flow of vehicular or pedestrian traffic on or in the vicinity of the campus or in any University building or property, or obstruct exit from or entrance to a University building;
  - b. The proposed activity would be a danger to the safety or welfare of individuals or property;
  - c. The proposed activity would interfere with University classes, instruction, research, or administration, or conflict with other programs, events, activities;

- d. The proposed activity would involve the display or distribution of obscene material; or
  - e. The proposed activity would violate another University policy.
- 2) Restrictions on amplification:
- a. The use of amplification equipment on University property is by permission only. Permission will not be granted under circumstances where amplification may interfere with other scheduled events or activities on or off campus or violate the local noise ordinance;
  - b. Amplification equipment is not permitted in the vicinity of classrooms during scheduled class hours; and
  - c. Persons or groups desiring to use amplification equipment must obtain the prior approval of the Assistant Vice President of Student Affairs/Director of Student Life. Requests should be initiated through the Campus Reservationist **at least three (3) business days** prior to the event, as part of the procedure for scheduling and obtaining approval of the event itself. If the use of amplification equipment is desired, the exceptions to the requirement for advance scheduling and approval of the event or activity do not apply.
- 3) Prohibition of obscenity:
- a. Obscene speech, materials, or activity is not protected by the constitution of the United States or the State of Indiana and is prohibited by University policy. Obscene materials share the following elements:
    - 1. The average person, applying contemporary community standards, finds that the dominant theme of the matter or performance, taken as a whole, appeals to the prurient interest in sex;
    - 2. The matter depicts or describes, in a patently offensive way, sexual conduct; and
    - 3. The matter or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.
  - b. Under Indiana law (I. C. 35-49-3-1), a person who knowingly or intentionally exhibits or distributes obscene material commits a Class A misdemeanor. However, the offense is a Class D felony if the matter depicts or describes sexual conduct involving a person who is or appears to be under sixteen years of age.

### **Demonstrations and Assemblies**

- 1) Indoors. Students, employees and recognized student organizations may be granted permission to assemble or hold a demonstration or assembly within a specified area of the following buildings, subject to availability and the payment of any fees uniformly required: Student Center, Emens Auditorium and Pruis Hall.
- 2) Out-of-Doors. Demonstrations and assemblies are permitted out-of-doors (subject to prior approval, as noted above, for those reasonably expected to involve more than fifty (50) people). Demonstrations or assemblies that are reasonably expected to involve more than fifty (50) people must be held on the Quad, University Green or LaFollette Field. The following rules also apply:

- a. They may not take place within sixty (60) feet of any window of any classroom or office, or any door of any classroom building, office building or residence hall.
- b. They are generally approved as a one-time event; provided, however, multiple approvals for recurring events may be approved on a content-neutral basis manner depending on relevant factors such as whether other events are already scheduled for the area.
- c. Overnight demonstrations and assemblies are prohibited unless approved in advance as part of the procedure for scheduling and obtaining approval of the event itself.

### **Marches**

- 1) Students, employees, and recognized student organizations are permitted to march out-of-doors on University property.
- 2) Marches that are expected to involve a large number of people and thus may not be contained to the sidewalk may have additional restrictions based on local ordinances and/or safety considerations. The Campus Reservationist will notify the student, employee, or recognized student organization if such restrictions apply.

### **Temporary Structures and Signs**

- 1) Students, employees, and recognized student organizations are permitted to construct temporary structures and signs out-of-doors in a designated area, where the structure or sign is designed to express the individual's or group's views, or to raise public consciousness and awareness of an issue.
- 2) The designated areas for structures and signs are the Quad, University Green or LaFollette Field.
- 3) Structures and signs are permitted for a period of up to ten (10) calendar days, which includes the time used to set up and tear down the structure or sign.
- 4) Approval for a structure or sign may be denied or revoked if weather conditions are such as to pose a substantial threat to health, safety or welfare, if the conditions of the structure or sign become unsanitary, or if the structure or sign otherwise threatens the health, safety or welfare of any individual.
- 5) Any structure or sign not in compliance with this policy shall be subject to immediate removal. The students, employees or student organization which sponsored, constructed or participated in the construction or use of the unauthorized structure or sign may be subject to disciplinary action and will be responsible for any costs associated with its removal.

### **Distribution and Posting of Materials**

- 1) Distribution of Materials:
  - a. Any person may distribute printed materials by hand directly to other persons, at any time, in an out-of-doors area if such distribution is done without tables, booths, or other similar set-ups. Printed material may not be placed on motor vehicles on University property.
  - b. In addition to the information above, University entities (recognized student organizations, academic departments, etc.) may reserve tables based on



availability for distribution both in-and out-of-doors through the Campus Reservationist.

- 2) Posting Materials: Materials may be posted on bulletin boards based on the posting policy for each particular building. Materials that are out-of-date, that cover the entire bulletin board, or that violate any University policy may be subject to immediate removal.
- 3) Chalking: Chalking is prohibited on University property.

### **Sanctions**

In no event will the University sanction any individual or group based on the content of an expressive activity. However, the University may sanction individuals or groups for violations of the time, place and manner restrictions set forth in this policy. Possible sanctions may include:

- 1) Immediate cessation of the expressive activity;
- 2) Suspension of the sponsoring individual or group from holding future events or participating in future events on campus;
- 3) Placing a recognized student organization on probation or withdrawing recognition; and/or
- 4) Disciplinary action against individual student(s) up to and including dismissal from the University.

Any questions concerning the interpretation or application of this policy shall be submitted to the Assistant Vice President of Student Affairs/Director of Student Life for resolution. The question shall be submitted in writing by the person affected and must set forth all facts and arguments which the person believes to be relevant to the resolution of the question. The Assistant Vice President of Student Affairs/Director of Student Life may conduct such investigation of the circumstances involved as deemed desirable and shall render a decision in writing. Any person who is informed that the person's conduct is in violation of this policy shall immediately cease the conduct involved. An appeal may be taken from the decision made under this paragraph.

### **Appeals**

If a request for approval of an event involving an expressive activity is denied or approved with restrictions, the individual(s) or group(s) that filed the request may submit an appeal to the Vice President for Student Affairs. The Vice President for Student Affairs or his/her designee will review the appeal and render a decision. The process for an appeal is as follows:

- 1) The appeal must be submitted in writing within ten (10) business days after the Assistant Vice President of Student Affairs/Director of Student Life's decision to deny the request or approve it with restrictions.
- 2) The appeal must include the name(s) and address(es) of the individual(s) or group(s) that submitted the original request, the nature of the action being appealed, and the grounds for the appeal.
- 3) The Vice President for Student Affairs or his/her designee's review will include the following:
  - a. The original request;
  - b. The basis for the denial or restriction of the request, and any related information;

- c. The basis for the appeal and any supporting information submitted with the appeal; and
  - d. Any additional information requested or obtained by the Vice President for Student Affairs or his/her designee from the Assistant Vice President of Student Affairs/Director of Student Life or the individual(s) or group(s) that submitted the appeal.
- 4) The decision of the Vice President for Student Affairs or his/her designee is final.
  - 5) The event that is the subject of the appeal shall not be held until after the decision on appeal is made.

### **Amendment**

This policy may be amended, added to, or revoked, in whole or in part, by the President of the University as the President from time to time may deem to be appropriate. Any such amendment, addition, or revocation, shall be effective as determined by the President and does not require approval by the Board of Trustees unless the action is inconsistent with any then existing policy of the Board of Trustees.

## **APPENDIX O- Weapons Policy**

Ball State University recognizes the importance of providing a climate which is conducive to the safety of all members of the University community. To aid in the accomplishment of this objective:

- A.** Faculty, Professional Personnel, and Staff employees of Ball State University, students, visitors, guests, and all other individuals are prohibited from possessing or carrying weapons of any kind while on University property, regardless of whether they are licensed to carry the weapon or not. Such prohibition extends to such individuals having such weapons in briefcases, purses, tool boxes, personal vehicles, or other personal property or effects.
- B.** The only exceptions to this policy are: (a) firearms in the possession of University police officers and other individuals who have written authorization from the University's Director of Public Safety to carry such weapons; (b) firearms in the possession of sheriffs, police officers, law enforcement officers, and correctional officers, who are duly authorized by law to carry such firearms; (c) equipment, tools, devices, and materials which are prescribed for use by authorized University employees as a condition of employment or class enrollment; and (d) legal chemical-dispensing devices, such as pepper sprays, that are sold commercially for personal protection.
- C.** University property includes all University owned, leased, or otherwise controlled building and lands. University vehicles are covered by this policy at all times whether or not they are on University property.
- D.** University sanctions will be imposed on offenders as appropriate and, in addition, criminal charges may be filed.
- E.** For the purposes of this policy, "weapons" include but are not limited to (a) firearms, such as handguns, shotguns, rifles, pellet guns, machine guns, stun guns, tazers, or electronic stun weapons; (b) explosives, such as bombs, grenades, blasting caps, or other containers containing explosive substances; and (c) other equipment, material, and devices that, in the manner they are used ordinarily could cause harm, or are readily capable of causing serious bodily injury. The items described in clause (c) include, but are not limited to, knives (except small personal pocket knives with folding blades that are less than three (3) inches long.), tear gas, chemical substances, brass knuckles, clubs, or chains.

## **APPENDIX P - Policy Concerning the Ownership, Distribution and Commercial Development of Ball State University Intellectual Property and Technology**

This policy appendix was added to the *Code of Student Rights and Responsibilities* in 2011 to supplement the statement in section 1.5.3 of the Code. The excerpt here applies to students. Students should familiarize themselves with the entire policy which may be found at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>.

This policy excerpt includes the introduction, Ball State policy statements, and a section on student theses and dissertations.

Persons with questions about this policy should contact the Ball State Sponsored Programs Office at 765-285-1600.

### **PART 1. INTRODUCTION AND SELECTED DEFINITIONS**

#### **1.0 INTELLECTUAL PROPERTY AND RELATED RIGHTS**

The material set forth in this document addresses the ownership, distribution, and commercial development of technology developed by Ball State University (“Ball State”) faculty, staff, and students and others participating in Ball State programs. The term “technology” is broadly defined in this document to include technical innovations, inventions, and discoveries, as well as writings, audiovisual or digital or other creative works, and other information in various forms, including computer software.

The principal rights governing the ownership and disposition of technology are known as “intellectual property” rights, which are derived primarily from federal and state legislation granting patent, copyright, trademark, trade secret and integrated circuit mask work protection.

In some instances, distribution and commercialization of technology may be accomplished by the transfer/assignment or licensing of the intellectual property rights, such as the licensing of patents or copyrights. In other instances, distribution and commercialization of technology may be aided by or depend upon access to the physical or tangible embodiment of the technology, as in the case of biological organisms, plant varieties or computer software through a material transfer arrangement.

Therefore, this policy will define not only the ownership, distribution, and commercialization rights associated with the technology in the form of intellectual property, but will also define policies and procedures which govern use and distribution of the technology in its tangible form.

6 The following overview of intellectual property rights is limited in scope. The Ball State Technology Transfer Officer (“TTO”) at the Ball State Technology Transfer Office should be contacted for further information regarding any of these rights.

...section removed for space reasons. See entire policy at <http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>

### **PART 2. BALL STATE’S POLICY STATEMENTS**

## 2.0 GENERAL POLICY STATEMENT

The prompt and open dissemination of the results of Ball State research and the free exchange of information among scholars are essential to the fulfillment of Ball State's obligations as an institution committed to excellence in education and research. Matters of ownership, distribution, and commercial development, nonetheless, arise in the context of technology transfer, which is an important aspect of Ball State's commitment to public service. Technology transfer is, however, subordinate to education and research; and the dissemination of information must, therefore, not be delayed beyond the minimal period necessary to define and protect the rights of the parties.

### 2.1 INTELLECTUAL PROPERTY OWNERSHIP POLICY STATEMENT

With the exception of the *written content* of student theses, dissertations and research reports as addressed more fully in Section 2.1.5, intellectual property rights in inventions, mask works, trade secrets, tangible research property and copyright ownership of materials made or created by Ball State faculty, students, staff, and others participating in Ball State programs, including visitors, are as follows:

#### BALL STATE OWNED

(a) Patents, copyrights (including copyrights on software), maskworks, trade secrets, and tangible research property and trademarks developed by faculty, students, staff and others, including visitors participating in Ball State programs or using Ball State funds, resources or facilities, are owned by Ball State when either of the following applies:

(1) The intellectual property was developed within the scope of employment and/ or by students as part of the student's participation and receipt of instruction in any Ball State class, funded project or independent study, internship or practicum under the supervision and direction of a faculty or staff member as outlined in the discussion below regarding Student Ownership and/or in the course of, or pursuant to, a sponsored research agreement with Ball State; or

(2) The intellectual property was developed with significant use of funds, other resources or facilities administered by Ball State, as defined in Section 2.1.2.

(b) Except as set forth herein, all copyrights, including copyrighted software, will be owned by Ball State when it is created as (1) a "work for hire" as defined by copyright law, (see Section 2.1.3), or (2) it is "specially commissioned" by Ball State pursuant to a written agreement whereby Ball State retains copyright ownership, (see Section 2.1.3), or (3) it is created pursuant to a written agreement with Ball State providing for transfer or assignment of copyright or ownership to Ball State.

#### INVENTOR/AUTHOR OWNED

Inventors/Authors, including students, will own patents/copyrights/other intellectual property when none of the situations defined above for Ball State ownership of intellectual property applies.

#### STUDENT OWNERSHIP

Except as set forth herein and in Section 2.1.5, under ordinary circumstances, students who independently develop intellectual property as part of, or arising outside, of their participation in programs of study at Ball State retain ownership rights to that intellectual property **unless any** of the conditions set forth in this section on Student Ownership and outlined above in Section 2.1(a) or Section 2.1(b) regarding Ball State owned intellectual property are applicable.

In this regard, any student engaging in research or development of intellectual property subject to Ball State ownership under Sections 2.1(a) (2), 2.1(b), or 2.1(a) (1) under a sponsored research agreement or under the supervision and direction of a faculty or staff member in connection with a class, funded project or independent study, internship, practicum or other program or activity subject to this Policy **shall have no ownership interest in the resulting intellectual property.** By way of illustration, this may include without limitation, patentable processes or inventions, computer aided designs, digital designs, models or fabrications, or student produced films, videos or digital productions. This paragraph is not determinative of appropriate academic credit for authorship of any resulting work product in which students are supervised or directed by Ball State faculty or staff. In instances where the intellectual property may be subject to Ball State ownership, a Disclosure outlined in Part 3 of this Policy shall be made for purposes of determining ownership, cost recovery and royalty distribution.

Where copyright ownership arising out of the student's participation in programs of study at Ball State is retained by the student in intellectual property, however, the student shall grant to Ball State a royalty-free perpetual non-exclusive license and consent to reproduce, use and publicly distribute the intellectual property for the following limited purposes of Ball State: (1) institutional promotion and marketing; (2) educational and instructional; and (3) entries into appropriate competitions.

...section removed for space reasons. See entire policy at  
<http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>

#### 2.1.5 STUDENT THESES AND DISSERTATIONS

Students will own copyright in theses and dissertations, however, where significant use is made of Ball State equipment or facilities provided to Ball State without copyright or other related restrictions, students own copyright in theses or dissertations, but any software code, patentable subject matter and/or any other intellectual property contained in, or produced as part of, the theses or dissertations remain subject to Ball State ownership pursuant to Section 2.1.2 above.

Moreover, where copyright ownership is retained by the student in the theses, dissertations and/or research reports, the student shall grant to Ball State a perpetual royalty-free, non-exclusive limited license and consent to reproduce, use and publicly distribute the thesis, dissertation and/or research report for the following limited purposes of Ball State: (1) institutional promotion and marketing; (2) educational and instructional; and (3) entries into appropriate competitions.

...section removed for space reasons. See entire policy at  
<http://cms.bsu.edu/About/AdministrativeOffices/Commercialization.aspx>

## APPENDIX Q—Responding to Disruption in the Academic Setting

1. **Purpose:** This document is designed to provide faculty and other University personnel guidance in responding to disruption in the academic setting. Disruption by a student in a Ball State classroom or other academic setting is a violation of the *Code of Student Rights and Responsibilities*, specifically

**5.2.9 Obstruction or Disruption** - Obstructing or disrupting the teaching and/or learning process in any campus classroom, building, or meeting area, or any University-sponsored activity, pedestrian or vehicular traffic, classes, lectures or meetings, obstructing or restricting another person's freedom of movement, or inciting, aiding, or encouraging other persons to do so. *See also Regulations for Use of Property for Expressive Activity, Appendix N and Responding to Conduct in the Academic Setting, Appendix P.*

### 2. Definitions

**2.1 Disruption** is defined as any “behavior a reasonable person would view as being likely to substantially or repeatedly interfere with the conduct of” an academic setting.

**2.1.2** Some behaviors or single incidents of some behaviors are not the focus of these guidelines. These include but are not limited to coming late to or leaving early from class, tapping fingers, chewing gum, reading a newspaper, and using electronic devices without authorization. While annoying and distracting, these usually can be addressed effectively through conventional classroom management techniques that include addressing behavior expectations in the syllabus and during the first class period, in-class intervention, and speaking to a student after class.

**2.1.2** However, students who exhibit behaviors listed above and who do not respond to reasonable intervention, who exhibit more severe behaviors, or who violate another University policy in an academic setting (e.g., intoxication, weapons policy violation) should be referred for adjudication through procedures outlined in the *Code of Student Rights and Community Standards*. Such behaviors include but are not limited to

- a. repeated and unauthorized use of cell phones, pagers or other technical devices
- b. persistent speaking without being called upon or disregarding instructor's requests
- c. making loud or distracting noises
- d. making physical or verbal threats
- e. engaging in behaviors reasonable people consider intimidating

**2.2 Academic Setting** is defined to be a classroom, office, laboratory, library, field experience site, online forums or other venues where instruction, advising, or service occurs.

### 3. Guidelines for Intervening When Disruption Occurs

- 3.1 Faculty members and administrators have the authority to instruct the student to leave

temporarily the academic setting where disruption is taking place. For instance, in the case of a classroom setting, the faculty member may instruct the student to leave for the remainder of a class period. The student should be told the reason for this request and instructed to meet with the instructor, administrator or a staff member from the Office of Student Rights and Community Standards prior to returning to the next class. The instructor should consult promptly with the department chair or designee and the Office of Student Rights and Community Standards. If the student refuses to leave, University Police should be called and requested to remove the student from the academic setting.

- 3.2 Suspensions for more than one class period or restrictions from entering a service office require disciplinary procedures outlined in the *Code of Student Rights and Responsibilities*.
  - 3.2.1 These procedures, conducted by the Office of Student Rights and Community Standards, include notifying the student of the complaint, providing the student with an opportunity in a hearing to defend against the complaint, and ensuring the decision is made based on substantial information.
  - 3.2.2 Outcomes of disciplinary procedures can include finding the student not responsible or finding the student responsible for a violation of the *Code of Student Rights and Responsibilities*. Sanctions imposed can range from official reprimand to suspension or expulsion in the most severe cases.
  - 3.2.3 A student may also be restricted from returning to a specific classroom or to using an alternative method of accessing services. In the case of restriction from a specific class, the student may be withdrawn administratively from the class with transcript notation (i.e., W, WP, WF, etc.) to be determined by nature and severity of disruption, timing of withdrawal, and other relevant circumstances.
- 3.3. This policy does not replace or modify facility usage policies already in place (e.g., University Libraries, Student Recreation and Wellness Center, residence halls).



## **APPENDIX R – Requirement to Disclose Felony Conviction or Charge after Admission**

Ball State University is concerned with the safety and achievement of its students and employees. Out of that concern, the University requires students who have been charged with or convicted of a felony after being admitted to report immediately that felony charge or conviction to the Office of Student Rights and Community Standards (located in Student Center L-4; phone 765-285-5036; email [stdtrights@bsu.edu](mailto:stdtrights@bsu.edu)).

As noted in section 3.5 of the *Code of Student Rights and Responsibilities*, persons “may be subject to the University sanctions for the same conduct, in accord with established policies and procedures, when the conduct is in violation of a University rule which is important to the continuing protection of other members of the University or to the safeguarding of the educational process. At the discretion of University officials, disciplinary action under this *Code of Student Rights and Responsibilities* may proceed in advance of or during the pendency of criminal proceedings. Determinations made or sanctions imposed under this *Code of Student Rights and Responsibilities* shall not be subject to change because criminal charges arising out of the same set of facts giving rise to University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.”

Disclosing a felony charge or conviction will not result in an automatic separation from the University. Any disciplinary action that is taken will take place according to procedures noted in section 6.5 of the *Code of Student Rights and Responsibilities*.

Discovery of a student’s failure to immediately report a felony charge or conviction as required in this policy may result in an interim suspension (outlined in section 6.5.4 of the *Code of Student Rights and Responsibilities*) from the University pending a formal hearing.

# **APPENDIX S – Policy Concerning Campus Use: Regulations for Use of Property for Distribution, Solicitation, Fund Raising, Sales, and Commercial Activity**

*Revised October 30, 2012*

## **1. INTRODUCTION.**

- 1.1. The property and facilities of Ball State University (“BSU” or “University”) are dedicated to the fulfillment of the University’s educational goals and mission and are provided for the purpose of fostering and accommodating the total educational program of the University.

The property and facilities of BSU are for the use of the University, its employees and agents, and its students. BSU may from time to time permit certain portions of its property or facilities to be used by certain persons for particular purposes, but this does not mean that such persons may conduct any activity they desire upon the same or any other University property. Nor does it mean that other types of persons may conduct any activity they desire upon that same or any other University property. Nor does the fact that the public may be permitted to come and go without restriction upon particular University property mean that the public may use the property and facilities of the University for whatever purpose or in whatever matter they may choose.

The purpose of this policy is to provide the framework for the use of BSU facilities, including uses that are not directly related to the instructional, research, administrative or service activities of the University, but which enhance the educational environment and provide a service to members of the University community.

## **2. APPLICABILITY.**

- 2.1. This policy, except as stated in paragraph 2.2 below, and as amended from time to time, applies to and governs any and all distribution, solicitation, fund raising, sales, and commercial activity on or using facilities, property, and equipment of the University and applies to all students and employees of the University and to all visitors entering upon University property.
- 2.2. This policy, as amended from time to time and except as provided in paragraph 7.3, does not apply to or govern in any way, activities of the University itself, of University employees or agents acting within the scope of their employment or agency, or of persons acting pursuant to a contract, lease or license with the University.
- 2.3. Nothing in this policy is intended to authorize sales of goods or services on or using facilities, property, and equipment of the University in conflict with existing exclusive contracts, or solicitation of the same.

## **3. DEFINITIONS.**

- 3.1. The following definitions apply for purposes of this policy:

- 3.1.1. Action Group - means an organization where a substantial part of its activities is attempting to influence legislation by propaganda or otherwise, or an organization that participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

- 3.1.2. Building - means all buildings or other structures (e.g., parking garages, stadium) owned, leased or under the control of BSU.
- 3.1.3. Campus Reservationist – means the BSU employee who reserves space in a particular building or outdoor space (student organizations typically will go through the Student Center Facilities Coordinator regardless of the venue; other organizations typically will reserve space through a different employee for various venues (e.g., the Director of Emens Auditorium and Pruis Hall, Special Events Manager for Sports Facilities Management, and Facilities Accounting/Space Coordinator for buildings and/or outdoor space not served with an assigned reservationist).
- 3.1.4. Chalking – means using chalk on sidewalks or other surfaces to write messages or draw pictures.
- 3.1.5. Commercial – means activity which is conducted essentially for the direct or indirect advertisement, promotion or sale of goods or services for the economic gain of the person conducting the activity.
- 3.1.6. Distribution – means the giving out of printed materials or of goods or services without requesting, directly or indirectly, a donation or other consideration in return for the materials, goods or services. Distribution does not include sales.
- 3.1.7. Facilities – means all buildings, land, and property owned, leased or under the control of BSU.
- 3.1.8. Fronting – means permitting a non-university individual or organization to use University facilities and services under the guise that the activity is a University-sponsored program or event.
- 3.1.9. Fund Raising – means solicitation conducted by or for the benefit of a non-profit organization, where the funds raised are not for the purpose of, or result in, the pecuniary gain of the organization's members.
- 3.1.10. Non-Affiliated Person or Group – means individuals, partnerships, corporations, associations, and other legal entities, profit or not-for-profit, with no established connection to the University.
- 3.1.11. Non-Profit Organization – means a corporation or association which does not engage in any activities for the profit of its members and which is organized and conducts its affairs for purposes other than the pecuniary gain of its members.
- 3.1.12. Outdoor Space – means all University property which is not located in a Building, including but not limited to, sidewalks, kiosks, railings, walls, light poles, trees, fences, benches, bridges, bodies of water, streets, plazas, fields, parking lots, patios or terraces.
- 3.1.13. Person – includes individuals, partnerships, corporations, associations and other legal entities.
- 3.1.14. Recognized Student Organization – means a group properly registered and recognized by the Office of Student Life.
- 3.1.15. Sales – means the sale of or taking of orders for goods or services for cash, credit or other consideration. It includes work intended for commerce.

3.1.16. Solicitation – Solicitation means the request, directly or indirectly, by any person to another person:

- a) For donations;
- b) For the sale to the other person of any printed material, goods or services;
- c) Any other request of a similar nature.

Provided, however, such requests that are contained in printed material given out within the definition of “distribution” shall not constitute solicitation.

3.1.17. Property – means all buildings, facilities, equipment, outdoor space, and real property owned, occupied or under the control of BSU.

3.1.18. University Department – means a Ball State University school, college, department, unit, institute, center or recognized affiliated entity.

3.1.19. Visitor – means any person who is neither a student, employee, nor agent of the University.

#### **4. DISTRIBUTION ACTIVITIES.**

- 4.1. Any person may distribute printed materials by hand directly to other persons, at any time, outdoors if such distribution is done without tables, booths or other similar apparatus. Printed material may not be placed on motor vehicles on University property.
- 4.2. University departments may reserve tables based on availability for distribution both in- and out-of doors through the Campus Reservationist.
- 4.3. Except as otherwise permitted by University policy, printed materials may not be posted or otherwise attached to any University property. Materials may be posted on bulletin boards based on the posting policy for each particular building or other outlets provided and designated by the University for that purpose. Such designations may limit the use to a particular manner, or manners, of distribution and particular areas may be restricted to use by particular types of entities (e.g., recognized student organizations). Materials that are out-of-date, that cover the entire surface of the bulletin board or other posting location, or that violate any University policies are subject to removal.
- 4.4. Chalking is prohibited on University property.

#### **5. FUND RAISING ACTIVITIES.**

- 5.1. Employees and students should be free from undue solicitations and distractions; therefore, solicitations and organized fund raising for charitable non-university entities directed to the entire campus community on University property is restricted to those approved by the President and the Executive Cabinet. The only University-sponsored charitable organization approved to conduct a fund raising campaign across the campus among the University employees at this time is the United Way. However, for the purpose of raising funds for their treasury or to fulfill a civic social obligation as required by their organization, recognized student organizations may request approval from the Office of Student Life to engage in fund raising activities on University property and, subject to this policy, these activities can occur across the campus. All approved fund raising solicitation must be in accordance with the following:

- 5.1.1. Recognized student organizations must notify the Campus Reservationist when reserving space that the reservation will include solicitation for fund raising

purposes. Depending on the scope of the activity, the Campus Reservationist will direct the student organization as to when and where the solicitation can occur.

- 5.1.2. Passive solicitation for fund raising purposes (e.g., unattended drop box, but no cash contributions), is permitted only in designated “common” areas. No active solicitation for donations of money or property with the use of containers is permitted on University property under this policy.
- 5.1.3. Fund raising activities or events must be conducted in such a manner that campus pedestrian, bicycle, and vehicular traffic are not unreasonably impeded and that faculty, staff and visitors to the campus who are not participating in the activity or event may proceed with their normal activities without undue interference.
- 5.1.4. No solicitation will be permitted at University events such as convocations, athletic events, or performances at Ball Gymnasium, Emens Auditorium, John E. Worthen Arena, Pruis Hall, Scheumann Stadium, Student Recreation and Wellness Center or Sursa Hall, except when part of an approved University contract signed by an authorized University signatory as set forth in paragraph 9.2.1. Additionally, recognized student organizations may request in writing approval to conduct a fund-raising event in one of these facilities. Such request must be submitted to the Vice President for Student Affairs and Dean of Students and the Vice President for Business Affairs and Treasurer, or their designee, prior to any solicitation or advertising of the event and must include the following: sponsoring organization, name and address of benefactor, type of solicitation, statement of purpose or need, and other information as needed to determine appropriate time, manner and place considerations.
- 5.1.5. All proceeds from such solicitations must be given for the charitable purpose advertised.
- 5.1.6. A solicitation may be publicized on the University’s Communication Center (or any subsequent university-wide electronic communication platform) only during the week preceding and during the active period and in accordance with other university policies.
- 5.1.7. Approval will not be given for solicitation of funds for use by action groups or political organizations, candidates, or causes.
- 5.1.8. A recognized student organization cannot be used by a commercial firm or company as a way to sell a good or service. To illustrate, this means that XYZ company cannot ask an individual or student group to reserve space simply for the company to sell an item or service, even if the student organization receives a portion of the profits. Refer to the definition of ‘fronting’ in paragraph 3.1.8. The following activities may be allowed:
  - a) The commercial activity involved is merely incidental to a larger scheduled event of a recognized student organization and is provided under contract with the recognized student organization merely for the convenience of those attending the event (e.g., food sales at a philanthropic event). The food sales, however, cannot conflict with other university policies, including paragraph 2.3 above.
  - b) The sale by the recognized student organization of goods or services of the commercial entity is conducted in the name of the recognized student

organization without promotion of the name of the commercial entity or trade names of the commercial entity's goods or services. Such fundraising shall not be used to evade the restrictions of this policy which would otherwise be applicable to a commercial firm.

- c) Sales arranged for by the University and approved in a contract signed by an authorized University signatory as discussed in paragraph 9.2.1.

5.1.9. Approval will not be given when proposed sales or programs will compete with other University programs or contracts.

## **6. ALL ACTIVITIES PERMITTED DURING LIMITED PERIOD.**

6.1. Non-affiliated persons or groups may engage in distribution, solicitation, fund raising, sales or commercial activity, including the use of tables, booths or other apparatus between 7:00 a.m. and 11:00 p.m. in an area designated by the University for such purpose during the seven (7) calendar days preceding the fall and spring semesters and first summer session, as well as the first day of the fall and spring semesters and first summer session. The space during that period is on a first-come, first-served basis by registering with the Student Center Campus Reservationist at any time during the eight (8) week period preceding the desired use.

6.2. The University may impose restrictions and rental fees in a content-neutral manner.

## **7. LIMITATIONS ON ACTIVITIES INSIDE BUILDINGS.**

7.1. No door-to-door distribution, solicitation, fund raising, sales, commercial activity or door-to-door visits for any other purpose are permitted within offices, residence halls, or family housing apartments.

7.1.1. Occupants of offices, residence hall rooms, and family apartments may invite a person to the occupant's office, residence hall room, or apartment for distribution, solicitation, fund raising, sales or other commercial activity within the privacy of the occupant's office, residence hall room or apartment, provided however, that there is no distraction or other interference with an employee's performance of job duties where applicable.

7.1.2. Other distribution, solicitation, fund raising, sales and commercial activity in family housing common facilities are subject to the rules and limitations set forth by Housing and Residence Life.

7.2. Sales of merchandise for profit by a non-affiliated person or group connected to a performance or special event must be under a contract reviewed and/or drafted by the Director of Contracts and approved by the Vice President for Business Affairs and Treasurer or their designee. Sales of merchandise for profit by a recognized student group for the purpose of raising funds for their treasury in conjunction with a non-affiliated person or group may be approved on a limited basis by the Vice President for Business Affairs and Treasurer and the Vice President for Student Affairs and Dean of Students. No goods or services may be made available for sale if similar goods or services are available for sale on University property by the University or persons under contract with the University. Such sales customarily are restricted to the following locations:

7.2.1. Emens Auditorium

7.2.2. John E. Worthen Arena

- 7.2.3. L.A. Pittenger Student Center
- 7.2.4. Pruis Hall
- 7.2.5. Scheumann Stadium
- 7.2.6. Sursa Hall
- 7.3. For the purpose of promoting an educational entrepreneurial experience, enrolled full-time students in good standing may conduct activities that constitute commercial activity upon prior written approval by the Vice President for Student Affairs and Dean of Students and the Vice President for Business Affairs and Treasurer, or their designee, through an approval process that will consider but is not limited to the following:
  - 7.3.1. The proposed activity is not in violation of local, state or federal law;
  - 7.3.2. The activity will not disrupt the University's educational atmosphere;
  - 7.3.3. The activity does not conflict with this or other University policies;
  - 7.3.4. The activity will not unreasonably impact other university revenue streams or violate existing contracts;
  - 7.3.5. The activity does not involve significant risks and, if necessary, appropriate insurance has been obtained;
  - 7.3.6. A permit shall be issued and displayed as directed by Facilities Planning and Management on any campus property occupied by the business;
  - 7.3.7. The business cannot be operated from residence hall rooms unless an exception is granted, in writing, from the Office of Housing and Residence Life;
- 7.4. A signed contract is required prior to any commercial activity being conducted on campus. See paragraph 9.2 below. The contract will be obtained through the approval process that originates in the Office of Student Life.
- 7.5. Except as may otherwise be provided by this policy, no other commercial, sales or solicitation activity is permitted in any University building.
- 7.6. Except as may otherwise be provided by this policy, no distribution, commercial, sales or solicitation activity is permitted on the University's Communication Center (or any subsequent university-wide electronic communication platform) with the exception of "For Sale/Lease" and similar open publishing categories in the Communications Center which are intended for use of a personal nature.

## **8. PROHIBITION ON FRONTING ACTIVITIES.**

- 8.1. Any University-affiliated person, department or student organization that reserves or permits the use of University property or services by a non-affiliated person or group under the guise that the activity is a University-sponsored program or event is participating in fronting for the non-affiliated person or group, which is prohibited.
- 8.2. Non-affiliated persons or groups are required to schedule use of facilities through the appropriate facility manager and pay for and use the space and any services in accordance with University policies and fee schedules.
- 8.3. Determination of fronting situations is made by the Vice President for Business Affairs and Treasurer or designee, in consultation with the Vice President for Student Affairs and

Dean of Students or designee when student groups or organizations are involved, and may subject the parties involved to sanctions as set forth in section 11, Failure to Comply.

## **9. GENERAL LIMITATIONS.**

- 9.1. The University has established fees for the use of its facilities and retains the right to assess such fees relative to use of specified areas of the campus. Due to the uniqueness of each facility, scheduling needs, etc., each facility will establish usage policies and charges specific to their facility and property subject to the approval of the Vice President for Business Affairs and Treasurer. The University reserves the right to reduce or waive charges where a compelling public need or interest is served, such as emergency shelter.
- 9.2. A signed contract is required prior to the use of University property by non-affiliated University persons or students for commercial activity as described paragraph 7.3. The contract must include required insurance coverage, statement of requested facilities, services and/or equipment, dates/times/locations of activities and any other information regarding special conditions or responsibilities.
  - 9.2.1. All contracts must be reviewed and/or drafted by the Contracts Office after preparation by the facility director and approved by an authorized signatory of the University (i.e., President, Vice President for Business Affairs and Treasurer or Associate Vice President for Business Affairs and Assistant Treasurer).
  - 9.2.2. Proof of liability insurance and the indemnification agreement must be filed and approved by the Office of Risk Management before any facility or property may be approved for outside use.
- 9.3. All activities must be in compliance with the *Tobacco-Free Campus Policy*.
- 9.4. For the purpose of reducing the risk of liability and maintaining quality, food safety and control, all food and beverages sold and provided on University property must be supplied by University Dining, University Catering, University contracted third-party food service provider, or as approved by the University pursuant to the *Food Safety Policy for Temporary Food Service*.
- 9.5. If approved, alcoholic beverage service must be provided by University Catering pursuant to the *Procedure for Scheduling Alcohol Related Events*.
- 9.6. Amplified sound and/or music are prohibited unless the event is sponsored by the President or Executive Cabinet, or other university affiliated event that is approved in writing and in advance by the Vice President for Business Affairs and Treasurer or designee. The Vice President for Student Affairs and Dean of Students, or designee, may approve amplified sound and/or music for student organization events.
- 9.7. No alterations may be made to University property unless otherwise authorized by the Vice President for Business Affairs or designee.
- 9.8. The University reserves the right to substitute an alternative space for any facility reserved if deemed necessary to conduct official University business or special programs or if it is in the best interest of the University to take such action.
- 9.9. In circumstances due to factors beyond the control of the University, the University may cancel a previously scheduled event without penalty unless otherwise specified in a written contract. If an event is canceled, the Campus Reservationist will contact the primary contact to discuss the cancellation and opportunities for rescheduling.



- 9.10. Permission for any activity covered by this policy may be denied or revoked if the proposed activity would:
- 9.10.1. Interfere with the free flow of traffic on the campus or block an exit or entrance to a building;
  - 9.10.2. Be a danger to the safety or welfare of persons or property;
  - 9.10.3. Conflict with other previously scheduled programs or University activities, such as instruction, research, or administration;
  - 9.10.4. Be unlawful; or
  - 9.10.5. Be impermissible pursuant to other University policies.

## **10. RESTRICTING ACCESS TO UNIVERSITY PROPERTY.**

- 10.1. The University may prohibit, limit or otherwise restrict access to or use of its buildings, facilities, or other property as may be necessary to provide for the orderly conduct of the University's instructional, research, administrative and service activities and the safety and security of University property, students, employees, guests and other visitors.
- 10.2. A university police officer or any university official designated by the university police, may restrict or deny any person's access to the building or a portion thereof, if the person engages (or threatens to engage) in conduct which:
- 10.2.1. Interferes with the orderly operation of University programs, building or other facilities;
  - 10.2.2. Violates the University's regulations pertaining to use of facilities;
  - 10.2.3. Creates reasonable apprehension of harm or injury to persons or property;
  - 10.2.4. Is proscribed by law.
- 10.3. The President, a university police officer or any university official designated by them, may restrict or deny any person's access to the entire University property if the person engages in conduct outlined above.

## **11. FAILURE TO COMPLY.**

- 11.1. Failure to comply with this policy or the policies described may result in:
- 11.1.1. Assessment of costs for expenses or damages incurred by the University;
  - 11.1.2. Suspension or revocation of scheduling privileges;
  - 11.1.3. Placing a recognized student organization on probation or withdrawing recognition;
  - 11.1.4. Disciplinary action under the appropriate University policies for students and employees.

## **12. INTERPRETATION AND APPEALS.**

- 12.1. Any questions concerning the interpretation or application of this policy shall be submitted to the Vice President for Business Affairs and Treasurer's designee for resolution. The question shall be submitted in writing by the person affected and must set forth all facts and arguments which the person believes to be relevant to the resolution of the question. The Vice President for Business Affairs and Treasurer's designee may conduct such investigation of the circumstances involved as deemed desirable and shall

render a decision in writing. Any person who is informed that the person's conduct is in violation of this policy shall immediately cease the conduct involved. An appeal may be taken from the decision made under this paragraph.

- 12.2. Written notice of appeal from the denial or limitation of the use of University property must be received in writing in the office of the appropriate Vice President within ten (10) days of the receipt of the notice of the denial or limitation. Failure to file a timely notice of appeal may be waived by the Vice President upon a showing of good cause.

- 12.2.1. Appeals by students, student groups or recognized student organizations must be made to the Vice President for Student Affairs and Dean of Students or designee.

- 12.2.2. All other appeals must be made to the Vice President for Business Affairs and Treasurer.

- 12.3. The notice of appeal must include the name and address of the person making the appeal or the authorized representative of the person responsible for the appeal, and the nature of the action being appealed.

- 12.4. The Vice President or designee shall review the appeal, which shall consist of an examination of: (1) the request for use of University property; (2) the written denial or limitation of the request; (3) the written notice of appeal; and (4) any other evidence deemed relevant by the Vice President. The decision of the Vice President or designee shall be based on whether good cause existed for the limitation or denial of the use request, which decision shall be final.

- 12.5. Any event related to an appeal shall not be held pending a decision on appeal.

13. **AMENDMENT.** This policy may be amended, added to, or revoked, in whole or in part, by the President of the University as the President from time to time may deem to be appropriate. Any such amendment, addition, or revocation, shall be effective as determined by the President and does not require approval by the Board of Trustees unless the action is inconsistent with any then existing policy of the Board of Trustees.

14. **DISCLAIMER.** In making its facilities available for use under this policy to non-University affiliated persons and groups, the University assumes no obligation or responsibility for the activities of the person or group. Further, the University reminds all users to be aware of and comply with applicable laws, including those concerning safety, libel, slander, defamation, and obscenity.